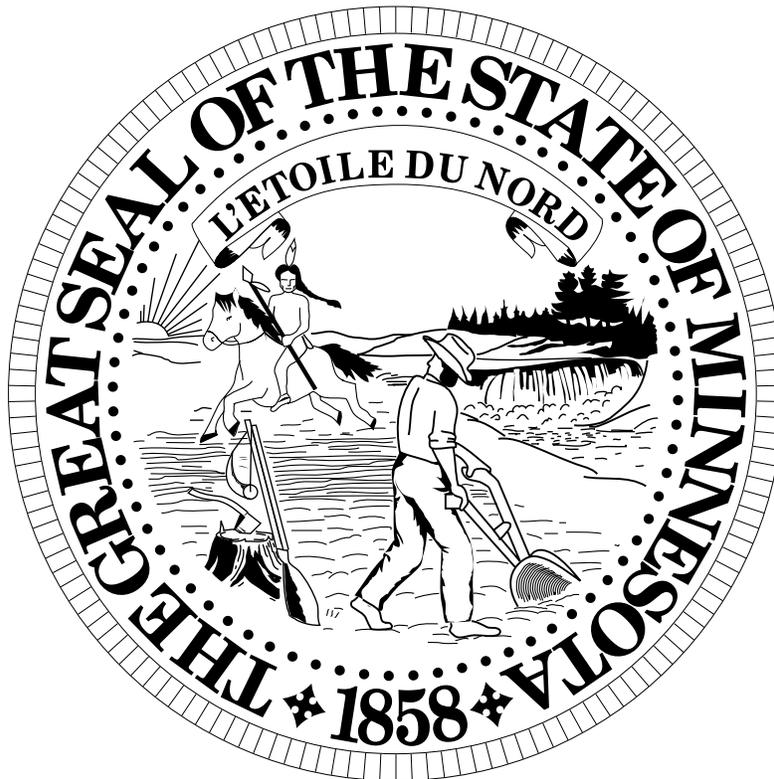


State of Minnesota

State Register

Rules and Official Notices Edition



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Monday 19 November 2001

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State Register

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes* § 14.46. The *State Register* contains:

- proposed, adopted, exempt, expedited emergency and withdrawn rules
- executive orders of the governor
- appointments
- proclamations and commendations
- commissioners' orders
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Vol. 26 Issue Number	PUBLISH DATE	Deadline for both Adopted and Proposed RULES	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts
#22	Monday 19 November	Noon Wednesday 7 November	Noon Tuesday 13 November
#23	Monday 26 November	Noon Wednesday 14 November	NOON MONDAY 19 NOVEMBER
#24	Monday 3 December	NOON TUESDAY 20 NOVEMBER	Noon Tuesday 27 November
#25	Monday 10 December	Noon Wednesday 28 November	Noon Tuesday 4 December

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Minnesota Rules: Amendments & Additions Volume 26, Issues #15-22.....	650	Transportation Department Petition of the Rice County Board for a variance from state aid requirements for after the fact plan approval.....	677
Proposed Rules		Utilities Commission, Minnesota Public Request for comments on possible rules on the safety, reliability and service quality of distribution utilities	678
Electricity Board Approval of programs for experience credit	652	State Grants & Loans	
Adopted Rules		Health Department Grants available for the Minnesota Rural Flex Grant Program.....	679
Children, Families and Learning Department Special education	657	State Contracts	
Exempt Rules		Administration Department Updated terms and conditions for sale of state property.....	680
Public Utilities Commission Utility customer service	668	Health Department Request for proposals for the evaluation of eliminating health disparities initiative	681
Revenue Notices		Historical Society Request for proposals for exterior wayfinding signage	681
Department of Revenue Revenue Notice #01-09: MinnesotaCare Tax - business transactions in Minnesota	671	Housing Finance Agency Request for proposals for rental housing pilot program	681
Official Notices		Human Services Department Request for proposals to develop a comprehensive medical managed care incentive program for the Minnesota Department of Human Services	683
Comprehensive Health Association Meeting of the Executive Committee Monday 19 November 2001	673	Investment Board Request for proposals for master custody services	684
Electricity Board Request for comments on possible amendment to rules relating to request for inspection certificates expiration	673	Non-State Contracts & Grants	
Environmental Quality Board Fibrominn 65 MW biomass power plant exemption granted.....	674	University of Minnesota Bid Information Service (BIS) available for all potential vendors	684
Sentencing Guidelines Commission Public hearing to consider modifications to the sentencing guidelines	674	Request for proposals for a facility condition assessment (FCA) at the University of Minnesota's Twin Cities Campus	685

Commodity, Service, and Construction contracts are published Tuesday and Friday in a bulletin, the **Solicitation Announcements**. Award results are available from the Materials Management Helpline (651) 296-2600. **Website:** www.mmd.admin.state.mn.us

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Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1999 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

Volume 26, Issues #15-22

Agriculture Department

1525.0920; .0930; .0940; .1040; .1070; .1100; .1470; .2300; .2310; .2320; .2330; .2370; .2390; .2470; .2480;	
1530.0990; .1000; .1010; .1110; .1360; .1660; .1700; .1720; .2210; .2220; .2230; .2240 (adopted)	627
1525.0470; .0480; .0490; .0500; .0530; .0540; .0570; .0580; .0590; .0620; .0630; .0640; .0650; .0661; .0700; .0710; .0720; .0730; .0740; .0750; .0760; .0770; .0780; .0790; .0800; .0810; .0820; .0840; .0850; .0860; .0870; .0880; .0890; .0910; .0950; .0960; .0980; .0990; .1000; .1010; .1030; .1050; .1060; .1080; .1090; .1110; .1120; .1130; .1140; .1150; .1160; .1170; .1180; .1190; .1200; .1210; .1220; .1230; .1240; .1250; .1260; .1270; .1280; .1290; .1300; .1320; .1350; .1360; .1370; .1380; .1390; .1400; .1410; .1420; .1430; .1440; .1450; .1460; .1510; .2500; .2510; .2520; .2530; 1530.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0110; .0120; .0130; .0140; .0150; .0160; .0170; .0180; .0190; .0200; .0210; .0220; .0240; .0250; .0260; .0270; .0280; .0290; .0300; .0310; .0320; .0330; .0340; .0350; .0360; .0370; .0380; .0390; .0400; .0410; .0420; .0430; .0440; .0450; .0460; .0470; .0480; .0490; .0500; .0510; .0520; .0530; .0540; .0550; .0560; .0670; .0580; .0590; .0600; .0610; .0620; .0630; .0640; .0650; .0660; .0670; .0680; .0690; .0700; .0710; .0720; .0730; .0740; .0750; .0760; .0770; .0780; .0790; .0800; .0810; .0820; .0970; .1040; .1050; .1070; .1080; .0190; .1100; .1350; .1410; .1420; .1430; .1440; .1450; .1460; .1470; .1480; .1490; .1500; .1510; .1515; .1520; .1530; .1540; .1550; .1560; .1570; .1580; .1590; .1600; .1610; .1620; .1630; .1640; .1650; .1670; .1680; .1690; .1730; .1760; .1770; .1780; .1790; .1800; .1820; .1830; .1840; .1850; .1860; .1870; .1880; .1890; .1900; .2000; .2010; .2020; .2030; .2040; .2050; .2060; .2070; .2080; .2090; .2100; .2110; .2120; .2130; .2140; .2150; .2160; .2170; .2180; .2190; .2200; .2250; .2260; .2270; .2280; .2290; .2300; .2310; .2320; .2330; .2340; .2350; .2360; .2370; .2380; .2390; .2400; .2410 (repealed)	627

Chiropractic Examiners Board

2500.6000 (proposed)	512
2500.6000; .6050 (withdrawn)	566

Children, Families and Learning Department

3525.0200; .0755; .1310; .1329; .1333; .1335; .1339; .1341; .1348; .1352; .2325; .2340; .2710; .2810; .3010; .3100; .3600; .3700; .3750; .4100; .4210; .4410; .4600; .4700; .4770 (proposed)	657
3525.0200 s.7a; .1329 s.2; .1333 s.3; .1510; .2550 s.1; .2750; .2900 s.1, 3; .3700 s.2; .4200; .4400 (repealer)	657

Electricity Board

3800.3820; .3825; .3830; .3835; .3840; .3845; .3850; .3855; .3860; .3865; .3870 (proposed)	652
--	-----

Health Department

4650.0102; .0111; .0112; .0113; .0115; .0117; .0138 (adopted)	627
4650.0102, s.12c (repealed)	627

Higher Education Services Office

4850.0011; .0014; .0016; .0017 (proposed)	546
4850.0011 s.28 (proposed repealer)	546

Labor and Industry Department

5205.0010 (adopted exempt)	490
5219.0500; 5221.4020 (adopted exempt)	490

Natural Resources Department

6264.0400 (adopted expedited emergency)	565
6264.0400 s.4 (May 7, 2001, 25 SR 1779, and June 25, 2001, 25 SR 1965) (repealed)	565

Public Safety Department

7502.0420 (adopted exempt)	491
----------------------------	-----

Public Utilities Commission

7820.1600; .1800; .1900; .2000; .2100; .2300 (adopted exempt)	668
7820.1600 s.2b becomes .1600 s.2f (exempt renumberer)	668
7820.1600 s.2a, 3a; .2010 (exempt repealer)	668

Minnesota State Retirement System

7905.0100; .0300; .0800; .0900; .1200; .1500; .1600; .2000; .2200; .2300; .2400; .2500; .2560; .2600 (adopted exempt)	629
7905.0100 s.12, 18a; .2200 s. 1, 2, 3, 4 (exempt repealer)	629

Human Services Department

9505.0045; .0065; .0075; .0110; .0115 (proposed)..... 484

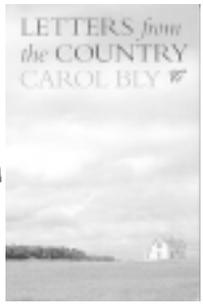
9505.0015, s. 2,7,10,15,26,29,30,35,43; .0016; .0020; .0030, s. 2,3; .0040; .0044; .0055, s. 1,2,3,4; .0058; .0059; .0060; .0061; .0062; .0063; .0064; .0065, s. 2,3,4,5,6,7,8,9,10,11,12; .0070, s.9; .0071, s.3,4; .0075, s.1,2,3,5,6,7,8,9,10; .0090, s.1; .0110, s.2; .0115, s.3,5; .0120; .0130 s.3; .0135, s.5,6; .0145; .0150 (proposed repealer)..... 484

9505.0390 (adopted)..... 487

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Proposed Rules

Comments on Planned Rules or Rule Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing

After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Board of Electricity

Proposed Permanent Rules Relating to Approval of Programs for Experience Credit

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Rules Governing the Approval of Technical College Programs for Experience Credit, *Minnesota Rules*, 3800.3820 - 3870

Introduction. The Board of Electricity intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. You may submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules until December 19, 2001.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: John A. Schultz at Board of Electricity, Griggs-Midway Building, Suite S-128, 1821 University Avenue, St. Paul, MN 55104, **phone:** (651) 642-0800, **fax:** (651) 642-0441. **TTY** users may call (800) 627-3529.

Subject of Rules and Statutory Authority. The proposed rules are about approval of technical college programs for experience credit for journeyman and maintenance electrician license applicants. The statutory authority to adopt the rules is *Minnesota Statutes*, sections 326.241, subdivision 2 (6), and 326.242, subdivision 2 (b). A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on Wednesday, December 19, 2001, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on Wednesday, December 19, 2001. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect

the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the statement may be obtained at the cost of reproduction from the agency.

Adoption and Review of Rules. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: 19 November 2001

John A. Schultz
Executive Secretary

3800.3820 PURPOSE.

Parts 3800.3820 to 3800.3870 establish requirements for approval of programs that will be used to fulfill the experience credit requirements for electrical license applicants.

3800.3825 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 3800.3820 to 3800.3870, the terms defined in this part have the meanings given them.

Subp. 2. **Advanced standing.** “Advanced standing” means credit toward program completion for prior education recognized by a postsecondary program through a developed procedure including transfer of credits for courses that are at least 80 percent similar to those in an approved program, and credit by examination for up to 25 percent of program courses.

Subp. 3. **Approval period.** “Approval period” means a time frame beginning with the approval beginning date and extending until the program is discontinued or board approval is removed or not continued through the reapplication process.

Subp. 4. **Course.** “Course” means a part of a program that consists of an individual knowledge or skill area, or part of a larger knowledge or skill area.

Subp. 5. **Electrical work.** “Electrical work” means the installing, altering, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for light, heat, power, or other purposes. The installing, altering, repairing, planning, or laying out of electrical wiring apparatus or equipment for light, heat, power, or other purposes includes, but is not limited to, the performance of any work governed by the standards referred to in *Minnesota Statutes*, section 326.243.

Subp. 6. **Independent study.** “Independent study” means student learning effort within the specific program content that is outside of lecture, shop, or lab time and does not require student/instructor contact.

Subp. 7. **Survey.** “Survey” means collecting and analyzing information to assess compliance with parts 3800.3820 to 3800.3870. Information must be analyzed by multiple methods, including review of requested information and materials, on-site evaluation, or interviews and conferences with program administrators, instructors, or students.

3800.3830 TWO-YEAR ELECTRICAL PROGRAM.

To qualify for approval, a two-year electrical program must be a postsecondary program that awards a diploma or an associate of applied science degree at completion and meets the requirements of parts 3800.3820 to 3800.3870. Satisfactory completion of an

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated “all new material.” ADOPTED RULES SECTION — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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Proposed Rules

approved two-year electrical program fulfills the one year's experience credit allowance for a Class A journeyman electrician or maintenance electrician license applicant according to part 3800.3520, subpart 5, items B and C, and *Minnesota Statutes*, section 326.242, subdivision 2, paragraph (b).

3800.3835 TECHNICAL PROGRAM COMMITTEE.

The president of the Minnesota Board of Electricity must appoint a technical program committee consisting of three board members, the board's executive secretary, and its electrical examiner. Appointment of board members must be made at the beginning of each fiscal year.

3800.3840 APPLICATION FOR PROGRAM APPROVAL.

Subpart 1. **Content.** An application for approval of a program must meet each of the requirements in items A to G.

A. The application must be in a format provided by the board and contain complete, current, and accurate information.

B. The application must include a syllabus for each program course.

C. The application must include a detailed written description of how the program meets the required program content.

D. The application must identify course instructors and their qualifications.

E. The information in the application must be able to be confirmed by survey.

F. The application must identify a beginning date corresponding to an initial student enrollment date. Students enrolled after the beginning date who successfully complete an approved program within the approval period are eligible for experience credit.

G. The application must be signed by the administrator and department head or another official representative of the applicant.

Subp. 2. **Processing.** The technical program committee shall review all applications. Items A to E apply to all applications.

A. Incomplete applications must be immediately returned to the applicant.

B. Upon review of completed applications, including completion of a survey, any deficiencies must be noted and identified to the applicant.

C. If no deficiencies are noted or all identified deficiencies have been corrected, the committee shall recommend approval to the full board.

D. If the applicant fails to correct identified deficiencies, the technical program committee shall recommend disapproval to the full board.

E. An applicant may request a hearing before the full board to appeal disapproval of a program.

3800.3845 REPORTING AND REAPPLICATION FOR APPROVAL.

A. By July 1 of each year, the administrator of a program approved for experience credit shall provide an annual report to the board. The annual report must include a copy of course syllabi for approved programs, a detailed description of new courses or courses modified over ten percent, and identification and qualification of instructors, including instructor development. The annual report must be signed by the administrator and department head or another official representative of the program provider.

B. An approved program must be resubmitted for approval by July 1 of the fifth year from the last approval date. At its discretion, the board may modify the initial time period for resubmission to achieve review of approximately 20 percent of approved programs each year.

C. The administrator of an approved program shall provide information as part of a survey upon request of the board.

D. The administrator of an approved program shall notify the board when an approved program is discontinued.

3800.3850 REMOVAL OF APPROVAL.

A. The board shall remove approval of a program based on a determination by survey that the program does not meet the requirements for approval.

B. The board may remove approval of a program if the administrator of an approved program fails to provide the annual report according to part 3800.3845.

C. The board may remove approval of a program if the administrator of an approved program fails to resubmit the program for reapplication by July 1 of the fifth year from the last approval date or the year assigned by the board as allowed by part 3800.3845, item B.

3800.3855 VERIFICATION OF COMPLETION.

Upon inquiry by the board, the provider of an approved program shall provide verification that an applicant has completed an approved program.

3800.3860 TWO-YEAR ELECTRICAL PROGRAM CONTENT.

Subpart 1. Contact hours. A two-year electrical program shall consist of 2,000 or more hours of student/instructor contact time and is subject to the following:

A. up to 200 hours of independent study may be substituted for student/instructor contact time;

B. a minimum of 1,600 hours of contact time must be technical electrical instruction;

C. at least 30 percent but not more than 40 percent of the technical electrical contact hours must be lecture and the balance shop or lab hours;

D. intern programs, whether internal or external, must not be used to comply with the contact hours requirement;

E. a student may receive advanced standing credit for up to one-third of the courses of an approved program.

Subp. 2. Attendance policy. A two-year electrical program must include an attendance policy that requires students to attend a minimum of 95 percent of each required program course. The program must include a provision for students to retake courses or make-up portions of courses when the student does not attend 95 percent or more of each required program course. Attendance records must be kept at the course level.

Subp. 3. Technical content. A two-year electrical program must include courses that cover the following knowledge and skill areas:

A. electrical theory;

B. electronic theory;

C. lighting systems;

D. heating and cooling systems;

E. motors;

F. generators;

G. transformers;

H. panelboards and switchboards;

I. overcurrent devices;

J. grounding;

K. motor controls;

L. electronic controls;

M. electrical code;

N. electrical test equipment and troubleshooting;

O. specification and blueprint reading;

P. installation and application of electrical materials and equipment;

Q. wiring methods;

R. conductors and cables;

S. tools, materials, and handling;

T. fire alarm systems;

U. communication systems;

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Proposed Rules

V. alarm systems;

W. data systems;

X. electrical and jobsite safety;

Y. related mathematics; and

Z. related general education.

3800.3865 QUALIFICATIONS OF INSTRUCTORS FOR TWO-YEAR PROGRAMS.

Subpart 1. Generally. An instructor for a two-year electrical program shall meet the requirements in subparts 2 and 3.

Subp. 2. Licensing, experience, and education. An instructor shall:

A. hold a current license issued by the Minnesota Board of Electricity as a Class A master electrician or a Class A journeyman electrician;

B. hold a current license issued by an electrical licensing authority in the state where the school is located if the state has a reciprocal agreement with the Minnesota Board of Electricity for either master or journeyman licenses;

C. have a bachelor of science degree in electrical engineering and have 4,000 hours of experience performing work;

D. have an associate of applied science degree in electrical construction or maintenance, or both, and have 6,000 hours of experience performing electrical work;

E. have a two-year diploma for completing a two-year electrical construction program or maintenance program, or both, and have 6,000 hours of experience performing electrical work; or

F. for courses limited to specific technical or general education areas, other than general wiring methods or the application of electrical codes, be a technical expert based on special training or certification or accreditation in the specific knowledge or skill area.

Subp. 3. Recent initial experience. Except for instructors of courses in subpart 2, item F, a minimum of 2,000 hours of the required instructor experience must have been in the five years prior to the application for program approval or the instructor's employment date, whichever is later, and consist of either:

A. a minimum of 2,000 hours of experience performing electrical work; or

B. (1) up to 1,500 hours of experience credit for instruction based on a formula in which one hour of instruction equals two hours of experience credit; plus (2) a sufficient number of hours of experience performing electrical work to total 2,000 hours.

3800.3870 EFFECTIVE DATE.

Programs that were approved for experience credit prior to the effective date of this part must be submitted for approval no later than six months following the effective date of this part.

Adopted Rules

A rule becomes effective after the requirements of *Minnesota Statutes* §§14.05-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

Expedited and Emergency Expedited Rules

Provisions for the Commissioner of Natural Resources to adopt emergency expedited Game and Fish Rules are specified in *Minnesota Statutes* §§ 84.027. The commissioner may adopt emergency expedited rules when conditions exist that do not allow the Commissioner to comply with the requirements for emergency rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the emergency conditions. Emergency expedited rules are effective upon publication in the *State Register*, and may be effective up to seven days before publication under certain emergency conditions. Emergency expedited rules are effective for the period stated or up to 18 months.

Department of Children, Families, and Learning

Adopted Permanent Rules Relating to Special Education

The rules proposed and published at *State Register*, Volume 25, Number 38, pages 1526-1558, March 19, 2001 (25 SR 1526), are adopted with the following modifications:

3525.0200 DEFINITIONS FOR SPECIAL EDUCATION.

Subp. 1c. **Evaluation or reevaluation.** "Evaluation" or "reevaluation" means an appropriate individual educational evaluation of a pupil's performance or development conducted by appropriately licensed personnel according to recognized professional standards, parts 3525.2550 and ~~3525.2940~~ 3525.2710.

Subp. 2. ~~[See repealer.]~~ **Days.** "Days" means ~~the days school is in session when used in parts 3525.1100 to 3525.3600.~~ calendar days when used in parts 3525.3700 to 3525.4700 business day, calendar day, or school day as defined in Code of Federal Regulations, title 34, section 300.9.

Subp. 2e. **Extended school year (ESY) services.** "Extended school year (ESY) services" means special education instruction and related services for pupils who demonstrate the need for continued service ~~beyond the instructional year~~ on days when school is not in session for all students as a necessary component of a free, appropriate public education.

Subp. 3a. **Functional behavioral assessment or FBA.** "Functional behavioral assessment" or "FBA" means a process for gathering information to maximize the efficiency of behavioral supports. An FBA includes a description of problem behaviors and the identification of events, times, and situations that predict the occurrence and nonoccurrence of the behavior. An FBA also identifies the antecedents, consequences, and reinforcers that maintain the behavior, the possible functions of the behavior, and possible positive alternative behaviors. An FBA includes a variety of data collection methods and sources that facilitate the development of hypotheses and summary statements regarding behavioral patterns.

Subp. ~~3a~~ 3b. **Functional skills evaluation.** "Functional skills evaluation" means the use of test instruments and evaluation procedures to determine current levels of skill development and factors relevant to:

[For text of ~~subps 3a and~~ subp 4a, see M.R.]

Subp. 7a. ~~[See repealer.]~~

Subp. 8f. **Mechanical restraint.** "Mechanical restraint" means the use of devices, for example, mittens, straps, or restraint chairs, to limit a pupil's movement or hold a pupil immobile as an intervention precipitated by the pupil's behavior. Mechanical restraint applies to uses intended to prevent injury with pupils who engage in behaviors, for example, head-banging, gouging, or other self-injurious actions that result in tissue damage and medical problems. Mechanical restraint does not apply to restraint used to treat a pupil's medical needs or to position a pupil with physical disabilities.

Subp. 26. **Vocational evaluation.** "Vocational evaluation" means an ongoing, comprehensive process used to assist the pupil and the team to determine the pupil's strengths, interests, abilities, and needed support to be successful in a vocational setting. A

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Adopted Rules

vocational evaluation is one component of the ongoing special education multidisciplinary evaluation described in parts 3525.2550 and ~~3525.2910~~ 3525.2710.

3525.0755 EXTENDED SCHOOL YEAR SERVICES.

Subp. 2. **Definitions.** For the purposes of ESY, the terms in this subpart have the meanings given them.

A. “Level of performance” means a pupil’s progress toward annual IEP goals immediately prior to a break in instruction as seen in the progress measurements required by part 3525.2810, subpart 1, item A, subitem (9).

B. “Recoupment” means a pupil’s ability to regain the performance of a skill or acquired knowledge to approximately the same level of performance just prior to the break in instruction.

~~B. C.~~ “Regression” means a significant reduction decline in the performance of a skill or acquired knowledge, specified in the annual goals as stated in the pupil’s IEP, due to that occurs during a break in instruction.

~~C. D.~~ “Self-sufficiency” means a domain of the functional skills necessary for a pupil to achieve a reasonable degree of personal independence as typically identified in the annual IEP goals for a pupil requiring a functional curriculum. Skill areas within the domain of self-sufficiency include To attain self-sufficiency, a pupil must maintain skills consistent with the pupil’s IEP goals in any of these skill areas:

(7) basic communication; ~~and or~~

Subp. 3. **Determination of ESY entitlement.** ~~At the annual IEP meeting least annually,~~ the IEP team must determine a pupil is in need of ESY services if the pupil meets the conditions of item A, B, or C.

A. there will be significant regression of a skill or acquired knowledge from the pupil’s level of performance on an goal that requires more than the length of the break in instruction to recoup unless the IEP team determines a shorter time for recoupment is more appropriate;

C. the IEP team otherwise determines, given the pupil’s unique needs, that ESY services are necessary to ensure the pupil receives a free, appropriate public education.

~~The determination of the pupil’s level of performance must be derived from the progress measurements reported during the school year as required by Code of Federal Regulations, title 34, section 300.347.~~

Subp. 4. **Sources of information for IEP team determination.** ~~The IEP team must base its determination of need ESY services on multiple sources of~~ decide the basis for determining whether a pupil is eligible for ESY services using information; including:

Subp. 5. **Other factors to be considered.** In making its determination of ESY needs under subpart 3, item A, B, or C, the IEP team must ~~also~~ consider the following factors, where relevant:

G. the areas of the pupil’s curriculum which need continuous attention; ~~and or~~

3525.1310 STATE AID FOR SPECIAL EDUCATION PERSONNEL.

Salaries for essential personnel who are teachers and related services and support services staff members are reimbursable for the following activities:

F. school psychological services and school social worker services provided for pupils identified as emotional ~~and or~~ behavioral disordered according to part 3525.1329 alone or in conjunction with the instructional program outlined in any pupil’s IEP;

J. due process facilitation, except for attorney costs for suit preparation.

Ongoing services for at-risk students, for example, truancy, suicide prevention, child abuse, or protection, are not reimbursable.

3525.1329 EMOTIONAL ~~AND OR~~ BEHAVIORAL DISORDERS.

Subpart 1. **Definition.** “Emotional ~~and or~~ behavioral disorders” means an established pattern of one or more of the following emotional ~~and or~~ behavioral responses:

C. aggression, hyperactivity, or impulsivity.

The established pattern of emotional ~~and or~~ behavioral responses must adversely affect educational or developmental performance, including intrapersonal, academic, vocational, or social skills; be significantly different from appropriate age, cultural, or ethnic norms; and be more than temporary, expected responses to stressful events in the environment. The emotional ~~and or~~ behavioral responses must be consistently exhibited in at least three different settings, two of which must be educational settings, and one other setting in either the home, child care, or community. The responses must not be primarily the result of intellectual, sensory, or acute or chronic physical health conditions.

Subp. 2a. **Criteria.** A pupil is eligible and in need of special education and related services for an emotional ~~and~~ or behavioral disorder when the pupil meets the criteria in items A to C.

A. A pupil must demonstrate an established pattern of emotional ~~and~~ or behavioral responses that is described in at least one of the following subitems and which represents a significant difference from peers:

B. The pupil's pattern of emotional ~~and~~ or behavioral responses adversely affects educational performance and results in:

C. The combined results of prior documented interventions and the evaluation data for the pupil must establish significant impairments in one or more of the following areas: intrapersonal, academic, vocational, or social skills. The data must document that the impairment:

(2) is consistently exhibited by occurrences in at least three different settings, ~~including:~~ two educational settings, one of which is the classroom, ~~except for children not yet enrolled in kindergarten,~~ and one other setting in either the home, child care, or community ~~settings;~~ or for children not yet enrolled in kindergarten, the emotional or behavioral responses must be consistently exhibited in at least one setting in the home, child care, or community; and

Subp. 3. **Evaluation.**

A. The evaluation findings in subpart 2a must be supported by current or existing data from:

(6) health history review procedures; ~~and~~

(7) a mental health screening; and

(8) functional behavioral assessment.

The evaluation may include data from vocational skills measures; personality measures; self-report scales; adaptive behavior rating scales; communication measures; diagnostic assessment and mental health evaluation reviews; environmental, socio-cultural, and ethnic information reviews; ~~a functional behavioral assessment;~~ gross and fine motor and sensory motor measures; or chemical health assessments.

B. Children not yet enrolled in kindergarten are eligible for special education and related services if they meet the criteria listed in subpart 2a, items A, B, and C, subitems (2) and (3). The evaluation process must show developmentally significant impairments in self-care, social relations, or social or emotional growth, and must include data from each of the following areas: two or more systematic observations, including one in the home; a case history, including medical, cultural, and developmental information; information on the pupil's cognitive ability, social skills, and communication abilities; standardized and informal interviews, including teacher, parent, caregiver, and child care provider; ~~or~~ and standardized adaptive behavior scales.

3525.1333 DEVELOPMENTAL COGNITIVE DISABILITY.

Subpart 1. **Definition.** "Developmental cognitive disability (DCD)" means a condition ~~that results~~ resulting in significantly below average intellectual functioning ~~significantly below average and is associated with~~ concurrent deficits in adaptive behavior that ~~require~~ adversely affects educational performance and requires special education and ~~may require~~ related services. DCD does not include conditions primarily due to a sensory or physical impairment, traumatic brain injury, autism spectrum disorders, severe multiple impairments, cultural influences, or inconsistent educational programming.

Subp. 2. **Criteria.** The team shall determine that a pupil is eligible as having a DCD and is in need of special education and ~~may require~~ require related services if the pupil meets the criteria in items A and B.

A. The pupil demonstrates below average adaptive behavior ~~across multiple environments which must include~~ in school and home, and ~~community,~~ if appropriate, community environments. For the purposes of this item, "below average" means:

(2) documentation of needs and the level of support required; in at least four of the seven adaptive behavior domains; across multiple environments. Systematic observation and parent input must be included as sources to document need and level of support. All of the following adaptive behavior domains must be considered:

B. The pupil demonstrates significantly below average general intellectual functioning that is measured by an individually administered, nationally normed test of intellectual ability. For the purposes of this subitem, "significantly below average general intellectual functioning" means:

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Adopted Rules

- (1) mild-moderate range: two standard deviations below the mean, plus or minus one standard error of measurement; and
- (2) severe-profound range: three standard deviations below the mean, plus or minus one standard error of measurement.

3525.1335 OTHER HEALTH DISABILITIES.

Subp. 2. **Criteria.** The team shall determine that a pupil is eligible and in need of special education instruction and services if the pupil meets the criteria in items A, ~~B~~, and ~~C~~ B.

A. There is:

(2) in the case of a diagnosis of Attention Deficit Disorder ~~or~~ Attention Deficit Hyperactivity Disorder (ADD ~~or~~ ADHD), there is written and signed documentation of a medical diagnosis by a licensed physician. The diagnosis of ADD ~~or~~ ADHD must include documentation that DSM-IV criteria in items A to E have been met. DSM-IV criteria documentation must be provided by either a licensed physician or a mental health or medical professional licensed to diagnose the condition.

~~C~~ Subp. 3. **Evaluation.** The health condition results in a pattern of unsatisfactory educational progress as determined by a comprehensive evaluation documenting the required components of subpart 2, items A and B. The eligibility findings must be supported by current or existing data from ~~subitems (1) to (5)~~ items A to E:

- (~~1~~) A. an individually administered, nationally normed standardized evaluation of the pupil's academic performance;
- (~~2~~) B. documented, systematic interviews conducted by a licensed special education teacher with classroom teachers and the pupil's parent or guardian;
- (~~3~~) C. one or more documented, systematic observations in the classroom or other learning environment by a licensed special education teacher;
- (~~4~~) D. a review of the pupil's health history, including the verification of a medical diagnosis of a health condition; and
- (~~5~~) E. records review.

The evaluation findings may include data from: an individually administered, nationally normed test of intellectual ability; an interview with the pupil; information from the school nurse or other individuals knowledgeable about the health condition of the pupil; standardized, nationally normed behavior rating scales; gross and fine motor and sensory motor measures; communication measures; functional skills checklists; and environmental, ~~social~~ socio-cultural, and ethnic information reviews.

3525.1339 SEVERELY MULTIPLY IMPAIRED.

Subpart 1. **Definition.** "Severely multiply impaired" means a pupil who has severe learning and developmental problems resulting from two or more disability conditions determined by an evaluation as defined by *Code of Federal Regulations, title 34, section 300.532 part 3525.2710*.

Subp. 2. **Criteria.** The team shall determine that a pupil is eligible as being severely multiply impaired if the pupil meets the criteria for two or more of the following disabilities:

- C. developmental cognitive disability: severe -profound range, part 3525.1333;
- E. emotional ~~and~~ or behavioral disorders, part 3525.1329; or

3525.1341 SPECIFIC LEARNING DISABILITY.

Subp. 2. **Criteria.** A pupil has a specific learning disability and is in need of special education and related services when the pupil meets the criteria in items A, B, and C. Information about each item must be sought from the parent and must be included as part of the evaluation data. The evaluation data must confirm that the disabling effects of the pupil's disability occur in a variety of settings.

C. The team must agree that it has sufficient evaluation data that verify the following conclusions:

(3) the pupil's underachievement is not primarily the result of: visual, hearing, or motor impairment; developmental cognitive disabilities; emotional ~~and~~ or behavioral disorders; environmental, cultural, or economic influences; or a history of inconsistent educational programming.

3525.1348 TRAUMATIC BRAIN INJURY (TBI) ~~DEFINITION AND ENTRANCE CRITERIA.~~

Subp. 2. **Criteria.** The team shall determine that a pupil is eligible and in need of special education and related services if the pupil meets the criterion in item A and the criteria in items B and C as documented by the information gathered according to item D:

- C. The functional impairments are not primarily the result of previously existing:
 - (2) emotional ~~and~~ or behavioral disorders;

3525.1352 DEVELOPMENTAL ADAPTED PHYSICAL EDUCATION: SPECIAL EDUCATION.

Subp. 2. **Criteria.** A pupil is eligible for developmental adapted physical education: special education if the team determines the pupil meets the criteria in items A and B.

A. The pupil has one of the following disabilities in each respective criteria in parts 3525.1325 to 3525.1341, 3525.1345, and 3525.1354: autism spectrum disorders, deaf-blind, emotional ~~and~~ or behavioral disorders, deaf or hard of hearing, specific learning disability, developmental cognitive disability, severely multiply impaired, other health disability, physically impaired, visually impaired, traumatic brain injury or part 3525.1350, subpart 3.

3525.2325 EDUCATION PROGRAMS FOR K-12 PUPILS AND REGULAR STUDENTS PLACED IN CENTERS FOR CARE AND TREATMENT.

Subp. 2. **Education programs for students and pupils and regular education students placed in short-term programs for care and treatment.** A placement for care and treatment is a short-term placement if the anticipated duration of the placement is less than 31 school days. The school district must begin to provide instruction to the pupil or regular education student immediately after the pupil or student is enrolled in the education program. If the student is enrolled in the educational program without an educational record or IEP, the district's procedures must include immediate phone contact with the home school to see if the regular education student has been identified as disabled.

B. If a regular education student has not been identified as disabled or if the providing district cannot determine if a student has been identified as disabled:

(3) Based on the documented results of the screening, a decision must be made about the need for prereferral interventions or an appropriate special education evaluation according to parts 3525.2550 and ~~3525.2910~~ 3525.2710. It is not required that an appropriate evaluation be started unless it appears that it can be completed.

Subp. 3. **Education programs for pupils and regular education students placed in long-term programs for care and treatment.** A placement made for care and treatment is long term if it is anticipated to extend beyond 30 school days. The pupil or regular education student must receive educational services immediately upon enrollment in the education program:

B. If the student has not been identified as disabled or if the providing district cannot determine if the student has been identified as disabled, the student entering a residential facility for a long-term placement must be screened to determine if there is a need for an appropriate educational evaluation. An evaluation must begin with a review of screening and other information such as the parent or student interview, available educational and social history, and the purpose of the treatment placement. The evaluation must be conducted according to parts 3525.2550 and ~~3525.2910~~ 3525.2710.

Subp. 5. **Minimum service required.** The team must predict how long the pupil or regular education student must be placed for care and treatment. If the prediction is for a restricted period of more than 170 school days or its equivalent, exclusive of summer school, the district shall make available:

B. preferably a normal school day in accordance with *Code of Federal Regulations*, title 34, section 300.347 the pupil's IEP, as defined in part 3525.2810, subpart 1, item A;

Subp. 6. Placement, services, and due process requirements for pupils.

A. The IEP developed by the team must include the provisions of parts 3525.2900 and ~~3525.2920~~ 3525.2810, the location of the special education services, the projected duration of the special education services, and provisions for coordinating the care and treatment and the special education services.

C. If a pupil is placed in a residential facility outside the resident district, the providing district must provide appropriate special education services. The placement of the pupil in a residential center for care and treatment outside the resident district is not an initial placement in the receiving district. The providing district shall make every effort to implement the resident district's IEP, making the modifications necessary due to the restrictive care and treatment setting and based on agreements reached with the parent. The providing district shall comply with the due process procedures of parts 3525.2550 to 3525.4770. Districts shall develop alternative procedures for implementing the legal requirements for observing the student in a regular classroom and document previous interventions that have been tried before the student placed for care and treatment is identified as having a specific learning disability or an emotional ~~and~~ or behavioral disorder. These alternative procedures must be included in the district's

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Adopted Rules

entrance criteria. The district and facility shall cooperatively develop procedures to be used in emergency situations that comply with the Pupil Fair Dismissal Act according to *Minnesota Statutes*, sections 121A.40 to 121A.56, and the district's discipline policy.

Subp. 7. **Student's and pupil's and regular education student's placement; aid for special education.** Special education services provided to pupils and regular education students who have been placed for care and treatment are reimbursable in accordance with parts 3525.0800 and 3525.1310.

C. The indirect or consultative services provided in conjunction with regular education prereferral interventions and evaluation provided to regular education students suspected of being disabled and who have demonstrated learning or emotional ~~and~~ or behavioral problems in a screening are reimbursable.

3525.2340 CASE LOADS.

Subp. 4. **Case loads for school-age educational service alternatives.**

A. The maximum number of school-age pupils that may be assigned to a teacher:

(1) for pupils who receive direct special instruction from a teacher 50 percent or more of the instructional day, but less than a full school day:

(a) deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired, three pupils;

(b) deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired with one program support assistant, six pupils;

(c) developmental cognitive disability: mild-moderate range or specific learning disabled, 12 pupils;

(d) developmental cognitive disability: mild-moderate range or specific learning disabled with one program support assistant, 15 pupils;

(2) for pupils who receive direct special education for a full day:

(a) deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired with one program support assistant, four pupils;

(b) deaf-blind, autism spectrum disorders, developmental cognitive disability: severe-profound range, or severely multiply impaired with two program support assistants, six pupils; and

~~3525.2910~~ 3525.2710 EVALUATIONS AND REEVALUATIONS.

Subpart 1. **Initial evaluations.** A school district shall conduct a full and individual initial evaluation, according to this part before the initial provision of special education and related services to a pupil under this chapter. The initial evaluation shall consist of procedures to determine whether a child is a pupil with a disability that adversely affects the child's educational performance as defined in *Minnesota Statutes*, section 125A.02, who by reason thereof, needs special education and related services, and to determine the educational needs of the pupil. The district proposing to conduct an initial evaluation to determine if the child qualifies as a pupil with a disability shall obtain an informed consent from the parent of the child before the evaluation is conducted. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services. If the parents of the child refuse consent for the evaluation, the ~~agency~~ district may continue to pursue an evaluation by utilizing mediation and due process procedures.

Subp. 3. **Evaluation procedures.** Evaluations and reevaluations shall be conducted according to the following procedures:

A. The district shall provide notice to the parents of a pupil, according to ~~*United States Code*, title 20, section 1415, subsections (a), (b)(3), (b)(4), and (e)~~ *Code of Federal Regulations*, title 34, sections 300.500 to 300.505, that describes any evaluation procedures the district proposes to conduct.

B. In conducting the evaluation, the district shall:

(1) use a variety of evaluation tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that ~~may~~ are designed to assist in determining whether the child is a pupil with a disability and the content of the pupil's individualized education program, including information related to enabling the pupil to be involved in and progress in the general curriculum or, for preschool pupils, to participate in appropriate activities;

(3) use technically sound instruments that ~~may~~ are designed to assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

C. Each district shall ensure that:

(1) tests and other evaluation materials used to ~~assess~~ evaluate a child under this part are selected and administered so as not to be discriminatory on a racial or cultural basis, and are provided and administered in the pupil's native language or other mode of communication, unless it is clearly not feasible to do so;

~~(2) materials and procedures used to evaluate a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education and related services, rather than measure the child's English language skills;~~

~~(3) any standardized tests that are given to the child have been validated for the specific purpose for which they are used, are administered by trained and knowledgeable personnel, and are administered in accordance with any instructions provided by the producer of such tests;~~

~~(4) the child is ~~assessed~~ evaluated in all areas of suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;~~

~~(5) evaluation tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the pupil are provided;~~

~~(6) if an evaluation is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the evaluation report;~~

~~(7) tests and other evaluation materials include those tailored to evaluate specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient;~~

~~(8) tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills, unless those skills are the factors that the test purports to measure; and~~

~~(9) in evaluating each pupil with a disability, the evaluation is sufficiently comprehensive to identify all of the pupil's special education and related services needs, whether or not commonly linked to the disability category in which the pupil has been classified.~~

D. Upon completion of administration of tests and other evaluation materials, the determination of whether the child is a pupil with a disability as defined in *Minnesota Statutes*, section 125A.02, shall be made by a team of qualified professionals and the parent of the pupil in accordance with item E, and a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.

E. In making a determination of eligibility under item D, a child shall not be determined to be a pupil with a disability if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency, and the child does not otherwise meet eligibility criteria under parts 3525.1325 to 3525.1350.

Subp. 4. Additional requirements for evaluations and reevaluations.

F. Prior to using any conditional procedure, the IEP team must conduct a functional behavioral assessment (FBA). ~~The FBA is a process for gathering information to maximize the efficiency of behavior supports. It includes a clear description of problem behaviors, identification of events, times, and situations that predict the occurrence and nonoccurrence of the behavior, and it identifies the consequences and reinforcers that maintain the behavior and the possible functions of the behavior as defined in part 3525.0200, subpart 3a. The team must also document that it has ruled out any other treatable cause for the behavior, for example, a medical or health condition, for the interfering behavior.~~

Subp. 5. Procedures for determining eligibility and placement.

A. In interpreting the evaluation data for the purpose of determining if a child is a pupil with a disability under parts 3525.1325 to 3525.1350 and the educational needs of the child, the school district shall:

~~(1) draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and~~

~~(2) ensure that the information obtained from all of the sources is documented and carefully considered.~~

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Adopted Rules

B. If a determination is made that a child is a pupil with a disability who needs special education and related services, an IEP must be developed for the pupil according to part 3525.2810.

Subp. 6. Evaluation report. An evaluation report must be completed and delivered to the pupil's parents within the evaluation timeline. At a minimum, the evaluation report must include:

A. a summary of all evaluation results;

B. documentation of whether the pupil has a particular category of disability or, in the case of a reevaluation, whether the pupil continues to have such a disability;

C. the pupil's present levels of performance and educational needs that derive from the disability;

D. whether the child needs special education and related services or, in the case of a reevaluation, whether the pupil continues to need special education and related services; and

E. whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the pupil's IEP and to participate, as appropriate, in the general curriculum.

~~3525.2920~~ **3525.2810 DEVELOPMENT OF INDIVIDUALIZED EDUCATION PROGRAM PLAN.**

Subpart 1. **Definitions.** As used in parts 3525.0200 to 3525.4770, the terms defined in this part have the meanings given them.

A. "Individualized education program" or "IEP" means a written statement for each pupil that is developed, reviewed, and revised in a meeting in accordance with this part and that includes:

(8) when a pupil reaches the age of 18, unless a guardian or conservator has been appointed for the pupil by a court of competent jurisdiction, the following shall occur and be documented in the pupil's IEP:

(a) the district shall provide any notice required under this chapter to the pupil and the pupil's parents; and

(b) all other rights accorded to the parents under this chapter and Part B of IDEA 1997, Code of Federal Regulations, title 34, chapter 300, transfer to the pupil, even if the pupil is incarcerated in an adult or juvenile state or local correctional institution.

Beginning at least one year before the pupil reaches the age of 18, a statement that the pupil has been and the pupil's parents must be informed of his or her those rights under this chapter, if any, that will transfer to the pupil on reaching the at age of majority under United States Code, title 20, section 1415(m) 18; and

(9) a statement of how the pupil's progress toward the annual goals described in subitem (2) will be measured, how the pupil's parents will be regularly informed by such means as periodic report cards, at least as often as parents are informed of their nondisabled student's progress, of the pupil's progress toward the annual goals described in subitem (2), and the extent to which that progress is sufficient to enable the pupil to achieve the goals by the end of the year;

(10) a statement of the pupil's need for and the specific responsibilities of a paraprofessional; and

(11) any documentation required in part 3525.2900, subpart 5.

B. "Individualized education program team" or "IEP team" means a group of individuals ~~composed of~~ that must include:

(1) the parents of a the pupil;

(3) at least one special education teacher; or, where appropriate, at least one special education provider of the pupil;

(4) a representative of the school district an administrative designee, as defined in part 3525.0200, subpart 1a, who is qualified to provide or supervise the provision of; specially designed instruction to meet the unique needs of pupils with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the district;

(6) at the discretion of the parent of or the district, other individuals who have knowledge or special expertise regarding the pupil, according to Code of Federal Regulations, title 34, section 300.344(c), including related services personnel, as appropriate; and

~~Subp. 2. Requirement that program be in effect. At the beginning of each school year, each district shall have in effect, for each pupil in its jurisdiction, an individualized education program, as defined in subpart 1, item A.~~

Subp. 3. 2. **Development of IEP.**

A. In developing each pupil's IEP, the IEP team shall consider the strengths of the pupil and the concerns of the parents for enhancing the education of the pupil ~~and~~, the results of the initial evaluation or most recent evaluation of the pupil, ~~and~~, as appropriate, the results of the pupil's performance on any general state or districtwide assessment program.

B. The IEP team shall:

(1) in the case of a pupil whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions, ~~strategies~~, and supports to address that behavior;

C. If, in considering the special factors described in items A and B, the IEP team determines the pupil needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the pupil to receive FAPE, the IEP team must include a statement to that effect in the pupil's IEP.

D. The regular education teacher of the pupil, as a member of the IEP team, shall, to the extent appropriate, participate in the development of the IEP of the pupil, including the determination of appropriate positive behavioral interventions and strategies and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with subpart 1, item A, subitem (3).

Subp. ~~4.~~ 3. **Review and revision of IEP.**

A. The district shall ensure that the IEP team reviews the pupil's IEP periodically, but not less than annually to determine whether the annual goals for the pupil are being achieved, and revises the IEP as appropriate to address:

(2) the results of any reevaluation conducted under part ~~3525.2910~~ 3525.2710;

Subp. ~~5.~~ 4. **Failure to meet transition objectives.** If a participating agency, other than the local school district, fails to provide the transition services described in the IEP in accordance with subpart 1, item A, subitem (7), the district shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the pupil set out in that program.

Subp. ~~6.~~ 5. **Construction.** Nothing in this part shall be construed to require the IEP team to include information under one component of a pupil's IEP that is already contained under another component of such IEP.

~~3525.2930~~ 3525.3010 **EDUCATIONAL PLACEMENT.**

Subpart 1. **Continuum of alternative placements.** Each district must ensure that a continuum of alternative placements is available to meet the needs of pupils for special education and related services. The continuum must:

A. include ~~the alternative placements listed in the definition of special education of Code of Federal Regulations, title 34, section 300.26~~ instruction in regular classes, special classes, special schools, home instruction, and instruction in schools and hospitals; and

Subp. 2. **General least restrictive environment requirements.** Each district must ensure:

~~A. that to the maximum extent appropriate, pupils, including pupils in public or private institutions or other care facilities, are educated with students who are nondisabled; and~~

~~B. that special classes, separate schooling, or other removal of pupils from the regular educational environment occurs only if the nature of severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily that pupils are placed in the least restrictive environment according to part 3525.0400 and Code of Federal Regulations, title 34, section 300.552.~~

3525.3100 FOLLOW-UP REVIEW REQUIREMENTS.

Pupils who are discontinued from all special education services may be reinstated within 12 months. If data on the pupil's present levels of performance are available and an evaluation had been conducted within three years pursuant to part ~~3525.2910~~ 3525.2710, the district is not required to document two prereferral interventions or conduct a new evaluation.

3525.3600 NOTICE OF CHANGE OR REFUSAL TO CHANGE EDUCATIONAL PLACEMENT OR PROGRAM.

Before the initiation or significant change or the refusal to initiate or significantly change a pupil's educational placement or special education services, as ~~set forth in United States Code, title 20, chapter 33, sections 1400 et seq.~~ defined in part 3525.0200, subpart 19b, the school district shall prepare and serve a notice that meets the requirements of *Code of Federal Regulations*, title 34, section 300.503.

The portion of the notice which is specific to the educational placement and provision of services shall:

A. include a copy of the individual educational program plan as described in part ~~3525.2910~~ 3525.2810, subpart 1, item A;

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Adopted Rules

3525.3700 CONCILIATION CONFERENCE.

Subpart 1. **When a conference must be offered.** ~~When provided notice of the district's proposed action or refusal to act, a parent must have the opportunity for at least one conciliation conference within 14 calendar days after receipt of notice be notified by the district that if;~~ the parent refuses to provide prior written consent for initial evaluation or initial placement, the parent objects in writing to any proposal, or the district refuses to ~~make a change as described in Code of Federal Regulations, title 34, section 300.503(a)(1)~~ initiate or change the identification, evaluation, or educational placement of the pupil or the provision of a free appropriate public education to the pupil, the parent may request a conciliation conference, mediation, or other form of alternative dispute resolution. The district must engage in a conciliation conference if one is requested by the parent.

Subp. 1a. **When and where held; results.** A conciliation conference must be held in accordance with the following:

A. A conciliation conference must be held within ten calendar days from the district's receipt of the parent's agreement to participate and at a time and place mutually convenient to the parent and school district representatives;

D. Within seven calendar days after the final conciliation conference, the district must serve the parent with a written ~~notice memorandum~~ that conforms with the requirements of *Code of Federal Regulations*, title 34, section 300.503, and must provide the parent with any proposed IEP ~~resulting from following~~ the conciliation conference. The ~~notice memorandum~~ and IEP may be used in a subsequent proceeding as permitted by part 3525.4100 and *Minnesota Statutes*, section 125A.09, subdivision 4; and

E. If the proposed action is an initial ~~action, as defined in part 3525.0200, subparts 7a and 8a~~ evaluation and initial placement, the district must proceed upon informed consent of the parents. For all other proposed actions, the district must proceed within seven calendar days after ~~notice~~ the memorandum is sent to the parents, unless the parent objects in writing to the proposed action within that time period.

3525.3750 MEDIATION AND OTHER ALTERNATIVE DISPUTE RESOLUTION.

Pursuant to *Minnesota Statutes*, section 125A.09, and *Code of Federal Regulations*, title 34, section 300.506, districts ~~and must~~ make mediation or other forms of alternative dispute resolution, including those developed by the commissioner, available to parents ~~are encouraged to resolve to encourage resolution of~~ disputes about any matter described in *Code of Federal Regulations*, title 34, section 300.503(a)(1), ~~through mediation or other forms of alternative dispute resolution, including those developed by the commissioner.~~ Mediations and other forms of dispute resolution must be agreed to by both parties. A mediation or other form of alternative dispute resolution must not be used to unilaterally delay or deny a parent's right to a hearing. All discussion involving or concerning the contents of a mediation or other form of alternative dispute resolution must remain confidential and must not be permitted as evidence in a due process hearing. Mediation must be conducted in accordance with *Code of Federal Regulations*, title 34, section 300.506. Other forms of alternative dispute resolution must be conducted pursuant to the agreement of the parties.

3525.4100 PREHEARING REVIEW BY HEARING OFFICER.

Subpart 1. **Information received before hearing.** Five business days before the hearing, the hearing officer shall receive copies of:

E. other information from the district or parent as the hearing officer may have requested at a prior date provided that a copy of the information is provided to all parties, and further provided that the information is made a part of the hearing record.

~~The provisions of Items B and C need not apply when the hearing concerns a proposed action under Code of Federal Regulations, title 34, sections 300.532 to 300.533 part 3525.2710.~~

3525.4210 HEARING RIGHTS OF RESPECTIVE PARTIES.

Subp. 2. **Additional hearing rights.** At least five business days after the request for hearing is made, or as directed by the hearing officer, the objecting party shall provide the other party with a brief statement of the particulars of the objection, the reasons for the objection, and the specific remedies sought. The other party must provide the objecting party with a written response to the statement of objections within five business days of receipt of the objecting party's statement. Any request to compel the attendance of witnesses must be made in writing to the appropriate school district or to the person whose attendance is compelled at least five business days in advance of the hearing. The written requests shall also be filed with the hearing officer at the time of hearing. ~~The hearing officer may subpoena witnesses and documents under Minnesota Statutes, section 14.51.~~

3525.4410 DECISIONS OF HEARING OFFICER.

Not more than 45 calendar days from the receipt of the request for a hearing, the hearing officer shall prepare a written decision based on evidence received and introduced into the record at the hearing.

The decision must:

B. be based upon a preponderance of the evidence; and

C. be based on the standards and principles in this chapter; *Minnesota Statutes*, ~~section 125A.08~~; and *Code of Federal Regulations*, title 34, part 300; ~~and~~

~~D. be consistent with FAPE standards according to *Code of Federal Regulations*, title 34, section 300.13.~~

3525.4600 EFFECTIVE DATE OF ACTION AND APPEALS.

The hearing officer's decision is final according to *Code of Federal Regulations*, title 34, sections 300.510, 300.511, and 300.514(c). Notices of appeal may be on the appeal form but must be in writing and sent by mail to all parties to the hearing when the appeal is filed with the commissioner. The notice of appeal must identify the specific parts of the hearing decision being appealed. The notice of appeal must be received by the commissioner within 30 days of the receipt of the final decision by the appealing party.

The hearing review officer's final decision must be issued within 30 calendar days after the filing of the appeal, and be based on a review of the local decision and the entire record, and any additional evidence obtained. A written transcript of the hearing shall be made by the district; the transcript and entire record shall be provided to the parties and the hearing review officer within five calendar days after the filing of the appeal. If the transcript and record are not provided to the hearing review officer within five calendar days of the filing of the appeal, the district shall request an extension of the time beyond the 30-calendar day period equal to the number of days which exceeded the five-calendar day period for filing the transcript and entire record. The hearing review officer shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument. A hearing held to seek additional evidence must be an impartial due process hearing but is not a contested case hearing. The hearing review officer may grant specific extensions of time beyond the 30-calendar day period at the request of any party for good cause shown on the record.

3525.4700 FINAL DECISION.

The hearing review officer's final decision must be in writing, include findings and conclusions, and be based on the standards in this chapter; *Minnesota Statutes*, ~~section 125A.08~~; ~~and *Code of Federal Regulations*, title 34, part 300; and be consistent with FAPE standards according to *Code of Federal Regulations*, title 34, section 300.13.~~

The decision of the hearing review officer is final and effective upon issuance. Any party aggrieved by the findings and decisions made by a hearing review officer shall have the right to bring a civil action pursuant to *Code of Federal Regulations*, title 34, section 300.512.

If the district fails to implement the hearing officer's or hearing review officer's decision, the parent shall have the right to bring the failure to the attention of the commissioner through the special education complaint process. In accordance with *Minnesota Statutes*, section 127A.42, the commissioner of Children, Families, and Learning shall impose sanctions necessary to correct any failure.

3525.4770 EXPEDITED HEARINGS, TIMELINES.

Subp. 3. **Hearing officer appointment.** The parties may agree upon a hearing officer, but the district shall send a copy of the hearing request to the commissioner by facsimile by the end of the business day following receipt of the parent's notice to the district superintendent or initiation of an expedited hearing. Within two business days of receipt of the notice, if the parties have not agreed to a hearing officer, the commissioner shall appoint a hearing officer. If the parties agree upon a hearing officer, the hearing officer must be from the roster maintained by the department. The district must contact the agreed upon hearing officer, and the hearing officer, if available to hear the matter, must notify the commissioner, who will then assign a hearing case number. If the agreed upon hearing officer is unavailable, the district shall inform ~~both parties~~ the parent and the commissioner of that fact, and the commissioner must appoint another hearing officer by the end of the following business day. If the parties are unable to reach agreement, either party may inform the department of that fact and request the immediate appointment of the next available hearing officer. The same hearing officers shall be used for the expedited hearings as for hearings under parts 3525.3800 to 3525.4500.

REPEALER. *Minnesota Rules*, parts 3525.0200, subpart ~~2~~ 7a; 3525.1329, subpart 2; 3525.1333, subpart 3; 3525.1510; 3525.2550, subpart 1; 3525.2750; 3525.2900, subparts 1 and 3; 3525.3700, subpart 2; 3525.4200; and 3525.4400, are repealed.

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Exempt Rules

Exempt rules are excluded from the normal rulemaking procedures (*Minnesota Statutes* § 14.386 and 14.388). They are most often of two kinds. One kind is specifically exempted by the Legislature from rulemaking procedures, but approved for form by the Revisor of Statutes, reviewed for legality by the Office of Administrative Hearings, and then published in the *State Register*. These exempt rules are effective for two years only.

The second kind of exempt rule is one adopted where an agency for good cause finds that the rulemaking provisions of *Minnesota Statutes*, Chapter 14 are unnecessary, impracticable, or contrary to the public interest. This exemption can be used only where the rules:

- (1) address a serious and immediate threat to the public health, safety, or welfare, or
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with *Minnesota Statutes* 14.14-14.28, or
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required, or
- (4) make changes that do not alter the sense, meaning, or effect of the rules.

These exempt rules are also reviewed for form by the Revisor of Statutes, for legality by the Office of Administrative Hearings and then published in the *State Register*. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years only.

The Legislature may also exempt an agency from the normal rulemaking procedures and establish other procedural and substantive requirements unique to that exemption.

Public Utilities Commission

Adopted Exempt Permanent Rules Relating to Utility Customer Service

7820.1600 DEFINITIONS.

[For text of subps 1 to 2, see M.R.]

Subp. 2a. [See repealer.]

Subp. 2b. [See renumbering instruction.]

Subp. 2e. Federal energy assistance. “Federal energy assistance” means the federal low-income home energy assistance block grant as provided by Public Law Number 97-35, title XXVI, Low Income Home Energy Assistance Act of 1981, as amended, codified in *United States Code*, title 42, sections 8621 through 8629.

Subp. 2g. Local energy assistance provider. “Local energy assistance provider” means a subgrantee for the purposes of implementing the federal low-income home energy assistance block grant as provided by Public Law Number 97-35, title XXVI, Low Income Home Energy Assistance Act of 1981, as amended, codified in *United States Code*, title 42, sections 8621 through 8629.

Subp. 2h. Monthly income. “Monthly income” means the actual monthly income ~~of or~~ average monthly income computed on annual calendar year, whichever is less, for all persons residing in the household, as defined in *Minnesota Statutes*, section 290A.03, subdivision 3, of a residential customer. ~~For a residential customer who is normally employed only on a seasonal basis and whose annual income is over 135 percent of the federal poverty level, as provided under Public Law Number 97-35, as amended, monthly income is the average monthly income of the residential customer computed on an annual calendar year basis added to the monthly income of all persons residing in the household.~~ Monthly income does not include any amount received for energy assistance.

[For text of subp 3, see M.R.]

Subp. 3a. [See repealer.]

[For text of subp 4, see M.R.]

Subp. 4a. Reasonably on time with payments timely payment. “Reasonably ~~on time with payments~~ timely payment” means payment within seven calendar days of agreed-to payment dates.

[For text of subps 4b to 7, see M.R.]

7820.1800 COLD WEATHER DISCONNECTION RESTRICTION.

Subpart 1. **Prohibited disconnection.** No utility shall disconnect the service of any residential unit during “cold weather months,” notwithstanding any other customer service rule, except part 7820.1100, if the disconnection would affect in any way the primary heat source of the residential unit and if the residential customer has acted as described in item A, B, or C:

A. The residential customer, or any designated third party, has declared inability to pay and is receiving any type of energy assistance, including federal assistance, or is income eligible, as provided in part 7820.1900; or, if appealed, the commission has determined the residential customer is unable to pay. To declare inability, the residential customer must meet the following requirements:

(1) the residential customer expresses willingness to enter into a mutually acceptable payment schedule for the current cold weather months, pursuant to part 7820.2100; and the residential customer was fully paid up or was making reasonably ~~on time with~~ timely payments under a payment schedule as of the billing cycle immediately preceding the start of the current cold weather months; or

(2) the residential customer makes reasonably timely payments to the utility under a payment plan that considers the financial resources of the household.

B. The residential customer, or any designated third party, requests the ten percent plan and is income eligible, as provided in part 7820.1900; or, if appealed, the commission has determined the residential customer is eligible for the ten percent plan. To request the ten percent plan, the residential customer must pay the utility at least the lesser of the following amounts:

(1) ten percent of the residential customer's monthly income; or

(2) the full amount of the current month's utility bill not including arrearages. Payment must be received within seven calendar days of the due date or regularly scheduled payment date or payment must be received by the date agreed upon by the utility and the residential customer; ~~or.~~

C. The residential customer has entered into a payment schedule and is making reasonably ~~on time with~~ timely payments under the schedule.

[For text of subp 2, see M.R.]

7820.1900 NOTICES OF DISCONNECTION, CUSTOMER RIGHTS AND DECLARATIONS, AND ASSISTANCE; APPEAL.

Subpart 1. **Notice before disconnection of service.** ~~Prior to~~ Before disconnecting the service affecting the primary heat source of ~~any~~ a residential unit for failure to make payment for ~~such the~~ service, the utility shall serve, personally or by first class mail, the following upon the residential customer and any designated third party:

A. a commission-approved notice of proposed disconnection;

B. a commission-approved notice of residential customer rights and possible assistance, which must include:

(1) for each county served by the utility, a list of the names and phone numbers of local energy assistance providers, weatherization providers, conservation providers, and other entities that assist residential customers in reducing ~~the consumption of~~ energy bills;

(2) an explanation of no-cost and low-cost methods to reduce the consumption of energy, including, for example, instructions to lower thermostat and hot water heater settings, turn off lights and close off rooms not in use, reduce hot water usage, block drafts around doors, cover windows with plastic sheets, replace furnace filters, caulk, apply weather strip, install hot water heater wraps, and similar methods. The explanation ~~shall~~ must also include, if applicable, a description of utility conservation services ~~which that~~ could assist the residential customer in implementing these measures; and

(3) ~~an explanation of the residential customer's rights and responsibilities under part 7820.2010 and, for each county served by the utility, a list of the names and phone numbers of local energy assistance providers, financial counseling providers, and other entities from which the residential customer can receive budget counseling; and~~

(4) a written explanation of how utility payments will be prorated under the ten percent plan when the residential customer is served by multiple utilities; and

C. ~~a commission approved, addressed, postage prepaid form on which a residential customer, or any designated third party, shall state that the customer received budget counseling pursuant to part 7820.2010; and~~

~~D.~~ a commission-approved, addressed, postage-prepaid form on which a residential customer, or any designated third party, may declare inability to pay or request the ten percent plan. The residential customer shall indicate on the form whether the cus-

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Exempt Rules

tomers receives any type of energy assistance, including federal assistance, or any type of public assistance, including energy assistance, that uses household income eligibility of less than ~~185 percent of the federal poverty level~~ 50 percent of the state median income. The residential customer shall provide on the form:

[For text of subitems (1) to (3), see M.R.]

[For text of subp 1a, see M.R.]

Subp. 1b. **Income verification and appeal.** If the residential customer does not receive any type of public energy assistance, including federal energy assistance, or any type of public assistance that uses household income eligibility of less than ~~185 percent of the federal poverty level~~ 50 percent of the state median income, and the utility does not have information sufficient to determine income eligibility without income verification, the utility shall notify the local energy assistance provider. The local energy assistance provider shall verify to the utility ~~that whether~~ the residential customer's household income is less than ~~185 percent of the federal poverty level~~ 50 percent of the state median income within 21 calendar days after the local energy assistance provider receives notification of the need to verify from the utility. The local energy assistance provider shall document its verification and, upon request, provide a copy to the commission. If the local energy assistance provider fails to verify income within 21 days, the utility may determine income eligibility based upon the information available to it.

If the local energy assistance provider or utility determines that the residential customer's household income is equal to or greater than ~~185 percent of the federal poverty level~~ 50 percent of the state median income, the utility shall provide the residential customer and any designated third party with a commission-approved written notice of the right to appeal the local energy assistance provider or utility determination. ~~Any~~ An appeal must be made within seven working days after the residential customer's receipt of personally served notice, or ~~for~~ within ten working days after the utility has deposited first class mail notice in the United States mail. In determining an appeal, the procedures set forth in part 7820.2000 ~~shall~~ apply. The determination ~~shall~~ must be based upon ~~185 percent of the federal poverty level~~ 50 percent of the state median income.

The utility shall not disconnect service while an appeal is pending, or until any appeal involving income verification has been determined by the commission. If no appeal is made by the residential customer or designated third party, the utility may disconnect service pursuant to the procedures and requirements of parts 7820.1000 to 7820.1400, 7820.2400, and 7820.2500.

[For text of subps 2 and 3, see M.R.]

7820.2000 DETERMINING INABILITY TO PAY OR PLAN ELIGIBILITY.

Subpart 1. **Determination of appeal.** ~~The commission shall determine~~ all appeals of declarations of inability to pay or eligibility for the ten percent plan ~~shall be determined~~ on an informal basis ~~by the commission~~ within 30 calendar days after receipt of the utility's written appeal. The commission shall determine the residential customer's inability to pay or eligibility for the ten percent plan based upon the following: a finding that the residential customer is in compliance with part 7820.1800, and a finding that the residential customer's household income is less than ~~185 percent of the federal poverty level~~ 50 percent of the state median income.

In making its determination, the commission shall consider one or more of the following:

A. documentation of income verification by the local energy assistance provider or the utility, if applicable;

B. documentation that the residential customer is a recipient of any type of public energy assistance, including federal energy assistance, or any type of public assistance that uses household income eligibility in an amount less than ~~185 percent of the federal poverty level~~ 50 percent of the state median income;

[For text of items C to H, see M.R.]

[For text of subp 2, see M.R.]

7820.2100 PAYMENT SCHEDULE.

[For text of subpart 1, see M.R.]

Subp. 2. **Inability to pay.** The residential customer or third party should notify the utility immediately of any circumstances making it impossible for the residential customer to comply with the payment schedule and should propose specific modifications to the payment schedule. Upon receipt of a request for modification of a payment schedule, the utility shall consider changes in the residential customer's consumption pattern, utility rate increases effective since the date of the original schedule, and changes in the residential customer's financial circumstances. ~~No~~ A residential customer who has declared inability to pay under part 7820.1800, subpart 1, item A, subitem (1), and who is income eligible, or if appealed, has been determined to be unable to pay, ~~shall~~ must not be disconnected during cold weather months for failure to make payments under a payment schedule ~~which that~~ applies to that period of time.

Subp. 3. **Appeals.** The utility shall provide the residential customer and any designated third party with a commission-approved written notice of the right to appeal to the commission when the utility and residential customer are unable to agree on the estab-

ishment, reasonableness, or modification of a payment schedule, or on the reasonable timeliness of the payments under a payment schedule. Any appeal must be made within seven working days after the residential customer's receipt of personally served notice, or ~~for within~~ ten working days after the utility has deposited first class mail notice in the United States mail. In determining an appeal, the procedures set forth in part 7820.2000 ~~shall~~ apply. The determination ~~shall~~ must be based upon ~~185 percent of the federal poverty level~~ 50 percent of the state median income.

The utility shall not disconnect service while a payment schedule is pending appeal, or until any appeal involving payment schedules has been determined by the commission. If no appeal is made by the residential customer or designated third party and the residential customer has been determined to have the ability to pay the utility bill pursuant to part 7820.2000, the utility may disconnect service pursuant to the procedures and requirements of parts 7820.1000 to 7820.1400, 7820.2400, and 7820.2500.

7820.2300 RECONNECTION AT BEGINNING OF COLD WEATHER MONTHS.

Subpart 1. **Reinstatement of service.** The utility shall reinstate service ~~which that~~ in any way affects the primary heat source of a residential unit if ~~such the~~ service remains disconnected as of October 15 ~~and~~ if the residential customer ~~makes application~~ applies for reinstatement and enters either a reconnection plan or a payment schedule. A residential customer may enter a reconnection plan only if the customer's monthly household income is less than ~~185 percent of the federal poverty level~~ 50 percent of the state median income.

Subp. 2. **Reconnection plan.** Under a reconnection plan, the residential customer must pay the current utility bills and arrearages in monthly installments during the cold weather months. Each monthly installment must not exceed ten percent of ~~one twelfth of the residential customer's annual income~~ a residential customer's monthly income. The reconnection plan applies only to the cold weather months.

[For text of subp 3, see M.R.]

Subp. 4. **Payment schedule.** ~~Any~~ A residential customer disconnected as of October 15 ~~shall have~~ has the same rights as in part 7820.2100, governing payment schedules.

RENUMBERER. Minnesota Rules, part 7820.1600, subpart 2b, is renumbered as subpart 2f.

REPEALER. Minnesota Rules, parts 7820.1600, subparts 2a and 3a; and 7820.2010, are repealed.

Revenue Notices

The Department of Revenue began issuing revenue notices in July of 1991. Revenue notices are statements of policy made by the department that provide interpretation, detail, or supplementary information concerning a particular statute, rule, or departmental practice. The authority to issue revenue notices is found in *Minnesota Statutes* § 270.0604.

Department of Revenue

Revenue Notice # 01-09: MinnesotaCare Tax - Business Transactions in Minnesota

This revenue notice deals with the MinnesotaCare tax implications for patient services that are performed partially in Minnesota, or services performed by a provider who does not physically examine the patient in Minnesota. This notice does not apply to the gross premium tax. Under *Minnesota Statutes* section 295.51, subdivision 1, a hospital, surgical center, or health care provider ("provider") is subject to the MinnesotaCare tax if it transacts business in Minnesota. The provider is subject to tax on gross revenues received for patient services performed in the state regardless of the patient's domicile or location. This generally means that the service is subject to tax if the provider is compensated for a service that is performed while the provider is in Minnesota. Receipts for services performed outside of Minnesota are not subject to tax.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Revenue Notices

When patient services are performed partially in Minnesota and partially out-of-state, the following rules apply:

- If the services performed in Minnesota and the services performed out-of-state are performed by providers who are part of the same legal entity, only the portion of the receipts allocated to the services performed in Minnesota is taxable. Taxpayers may use any reasonable method to correctly and fairly apportion services performed both in Minnesota and out-of-state. These methods may include miles traveled in Minnesota, services recorded or billed for as in-state services or amount budgeted for in-state services.
- If the Minnesota provider and the out-of-state provider are separate legal entities, and the Minnesota provider bills the patient or a third party payer for the total service, including the portion of the service performed by the out-of-state provider, the total receipts are subject to tax since the presumption is that the service is performed for the Minnesota provider. Payment made by the Minnesota provider to the out-of-state provider is not deductible from gross receipts for purposes of the MinnesotaCare Tax. If the billing for the out-of-state services is separate and the Minnesota provider bills only for the portion of the service that is performed in Minnesota, only that portion is subject to tax.
- If the Minnesota provider and the out-of-state provider are separate legal entities, and the out-of-state provider bills the patient or a third party payer for the total service, including the portion of the service performed in Minnesota, the Minnesota provider is subject to tax on the receipts received for the services performed in Minnesota.

Examples

1. **A North Dakota company** sends its trucks into Minnesota, equipped with nuclear imaging cameras. The images are taken in a Minnesota hospital and sent to North Dakota for interpretation. The company bills the patient for taking the images and for interpreting them.

The payments received for taking the images are subject to tax since the services were performed in Minnesota; the payments received for interpreting the images are not subject to tax since the services were performed outside Minnesota by a provider who is part of the same legal entity as the entity performing the services in Minnesota. If the services are not separately billed, the provider may use any reasonable method to calculate the services performed in Minnesota such as apportioning services billed as in-state services.

2. **A Minnesota provider** administers a lab test and sends the test to a lab in California for interpretation. The California lab and the Minnesota provider are separate legal entities. The California lab sends the results to the Minnesota provider. The provider reports the results of the test to the patient and bills the patient for the total service.

The payment received by the provider is subject to tax, including the portion representing the services performed by the California lab, since the tax is imposed on gross revenues received by the Minnesota health care provider with no allowance for expenses for services performed by the out-of-state provider.

3. **A California provider** administers a lab test and sends the test to a Minnesota lab for interpretation. The California provider and the Minnesota provider are separate legal entities. The Minnesota lab sends the results to the California provider. The provider reports the results of the test to the patient and bills the patient for the total service.

The Minnesota lab is liable for the tax on the payment received from the California provider since the lab is receiving payments for services performed in Minnesota.

4. **A Minnesota patient** sends a home lab test to an Illinois lab for interpretation. The lab bills the patient directly for its services.

The payment received by the Illinois lab is not subject to tax since the service was performed out of Minnesota.

5. **A Minnesota clinic** and a Wisconsin lab are part of the same legal entity. The patient is seen by a provider at the Minnesota clinic. The lab samples are sent to the lab in Wisconsin and results are conveyed to the provider who reports the results to the patient.

Only the portion of the receipts allocated to the services performed in Minnesota is taxable. The payment allocated to services performed out-of-state is not taxable.

6. **A clinic purchases** legend drugs to use at its Minnesota and Wisconsin clinics. The drugs are delivered by a wholesale drug distributor into Minnesota.

The wholesaler pays the wholesale drug tax on the total amount received for the drugs delivered in Minnesota. The provider may deduct the cost of the drugs used as part of the service performed in Minnesota. The provider may not deduct the cost of the drugs provided as part of the service in Wisconsin since these drugs are not subject to the health care provider tax.

7. **An ambulance transfers** a Wisconsin patient to a Minnesota hospital.

The tax is imposed on the portion of the service performed in Minnesota. The provider may use any reasonable method to calculate the services performed in Minnesota such as apportioning the total miles traveled.

8. **A Minnesota radiologist examines** a x-ray that has been digitally transferred from a Wisconsin clinic. The two providers are separate legal entities. The radiologist interprets the x-ray and sends his opinion to the Wisconsin provider. The Wisconsin provider bills the patient for the total service and pays the radiologist for his services.

The payment received by the Minnesota radiologist is subject to tax because the x-ray interpretation was performed in Minnesota.

Jennifer L. Engh
Assistant Commissioner for Tax Policy

Official Notices

Pursuant to Minnesota Statutes §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the State Register at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking. The State Register also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

Minnesota Comprehensive Health Association

Notice of Meeting of Executive Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA) **Executive Committee** will be held at 2:00 p.m., on Monday, November 19, 2001, via conference call. Anyone who wishes to participate in the session can come to the MCHA Executive Officers at 5775 Wayzata Blvd., Suite 910, St. Louis Park, MN.

For additional information, please call Lynn Gruber at (952) 593-9609.

Minnesota Board of Electricity

REQUEST FOR COMMENTS on Possible Amendment to Rules Relating to Request for Inspection Certificates Expiration, *Minnesota Rules, 3800.3780*

Subject of Rules. The Minnesota Board of Electricity requests comments on its possible amendment to rules governing expiration of request for inspection certificates. The Board is considering rule amendments that

- a. Clarify that only the authority to install electrical wiring expires after a specified time;
- b. Require installers of electrical wiring to schedule a final inspection upon completion and before the wiring is utilized as part of an occupied space;
- c. Clarify that request for electrical inspection fees are not refundable after a request for electrical inspection reaches expiration;
- d. Upon expiration, require installers of electrical wiring to file another request for electrical inspection and submit additional inspection fees to continue the wiring to completion; and
- e. Shorten the time frame from 18 months to 12 months for inspection certificates with inspection fees of \$100 or less; and
- f. Require that refunds of inspection fees with an original filing fee of \$100 or less are not refundable after 12 months from the original filing date.

Persons Affected. The amendment to the rules would likely affect electrical contractors, employers whose employees perform electrical work on the employer's premises, and owners performing electrical work on premises the owner occupies as a residence.

Official Notices

Statutory Authority. *Minnesota Statutes*, section 326.241, authorizes the Board to adopt reasonable rules to carry out its duties under sections 326.241 to 326.248 and to provide for the amount and collection of fees for inspection and other services.

Public Comment. Interested persons or groups may submit comments or information on these possible rules in writing until 4:30 p.m., on Wednesday, December 19, 2001. The Board does not contemplate appointing an advisory committee to comment on the possible rules.

Rules Drafts. The Board has not yet prepared a draft of the possible rules amendments.

Agency Contact Person. Written comments, questions, and requests for more information on these possible rules should be directed to: John A. Schultz at the Minnesota Board of Electricity, Griggs-Midway Building, Suite S-128, 1821 University Avenue, St. Paul, MN 55104, **phone:** (651) 642-0800, **fax:** (651) 642-0441. **TTY** users may call (800) 627-3529.

Alternative Format. Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

NOTE: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed.

Dated: 19 November 2001

John A. Schultz, Executive Secretary
Board of Electricity

Environmental Quality Board

Fibrominn 65 MW Biomass Power Plant Exemption Granted

At a meeting on October 18, 2001, the Minnesota Environmental Quality Board granted an exemption from the full siting process for the Fibrominn 65 MW Biomass Power Plant. The Fibrominn Biomass Power Plant proposed by Fibrominn LLC and the City of Benson will burn approximately 700,000 tons of biomass fuel annually to generate electric power. Approximately 75 percent of the biomass fuel will come from poultry litter. The remainder of the biomass will be secondary vegetative materials such as alfalfa stems and sunflower hulls. Natural gas or propane will be available as a backup fuel. The project will develop approximately 36 acres of an 83.7 acre site in an industrial park in northeast Benson. The project must still comply with any applicable state and local zoning, building and land use rules, regulations and ordinances.

If you have any questions about this project or would like more information, please contact the MEQB project leader: John P. Hynes, Room 300, 658 Cedar St., St. Paul, MN 55155. **Phone:** (651) 296-2871 or 1-800-657-3794; **email:** john.hynes@state.mn.us

Minnesota Sentencing Guidelines Commission

Notice of Public Hearing to Consider Modifications to the Sentencing Guidelines

THE MINNESOTA SENTENCING GUIDELINES COMMISSION WILL HOLD A PUBLIC HEARING on Thursday, December 20, 2001, at 3:00 p.m., in Room 15, State Capitol, St. Paul, Minnesota. The public hearing is to consider proposed modifications to the sentencing guidelines and commentary regarding felony Driving While Impaired passed during the 2001 Special Legislative Session.

Additional copies of the proposed modifications are available, free of charge, by contacting the Minnesota Sentencing Guidelines Commission at University National Bank Building, 200 University Avenue West, Suite 205, St. Paul, MN 55103, or by calling **phone:** (651) 296-0144. Deaf/Hard of Hearing/Speech Impaired Only **TTY** users may call this agency through the MN Relay Service: 1-800-627-3529; ask for (651) 296-0144. If you need special accommodations to attend, please contact the Minnesota Sentencing Guidelines Commission as soon as possible. This notice is available in alternative formats upon request.

All interested persons are encouraged to attend the hearing and offer comments. Persons wishing to speak may register in advance by contacting the Commission staff at the above address/telephone number.

The Commission will hold the record open for five days after the public hearing to accept additional written comment on the proposed modifications. On Thursday, December 27, 2001, the Commission will meet at 3:00 p.m., at the Minnesota Department of Corrections, 1450 Energy Park Drive, Suite 200, St. Paul, MN 55108 to formally adopt or reject the proposed modifications. If adopted, the modifications will become effective August 1, 2002.

II. Determining Presumptive Sentences

A. Offense Severity:

Felony offenses are arrayed into ~~ten~~ eleven levels . . . (Severity Level I) to high (Severity Level ~~X~~ XI). . . .

II.A.08. . . . For example, . . . appropriate severity level ranking would be severity level ~~VIII~~ IX.

B. Criminal History:

1. Subject to the conditions listed below, the offender is assigned a particular weight

a. The weight assigned to each prior felony sentence is determined . . . , as follows:

Severity Level VI - ~~VIII~~ VIII = 1 1/2 points;

Severity Level ~~VIII~~ IX - ~~X~~ XI = 2 points; and

II.B.202. However, one gross misdemeanor offense—~~aggravated driving while intoxicated impaired~~— . . . and first degree (felony) driving while impaired. Because of its particular relevance . . . ~~or~~ 169.129, or 360.0752 when . . . homicide or injury or first degree (felony) driving while impaired, and the ~~criminal vehicular~~

3. Subject to the conditions listed below, There is the following exception to this policy . . . criminal vehicular homicide or injury or first degree (felony) driving while impaired:

II.B.301. However, ~~the traffic offenses of driving while intoxicated impaired and aggravated driving while intoxicated traffic offenses~~ have particular relevance to the offenses of criminal vehicular homicide or injury and first degree (felony) driving while impaired. Therefore, criminal vehicular homicide or injury or first degree (felony) driving while impaired. . . .

II.B.302. The Commission believes . . . or first degree (felony) driving while impaired, and

II.B.601. In those cases, the prior related offense at the lowest level Additionally, first degree (felony) driving while impaired involves a violation of section 169A.20 within ten years of the first of three or more prior impaired driving incidents or by a person who has a previous first degree DWI conviction. Therefore, the DWI priors that elevated this offense to the felony level should be excluded. . . .

E. Mandatory Sentences:

When an offender is sentenced for first degree (felony) driving while impaired, the court must impose a sentence of at least 36 months in prison. The presumptive disposition is commitment to the commissioner. A stay of execution of sentence, while provided for under Minnesota Statutes § 169A.276, subd. 1b, constitutes a departure from the presumptive sentence and the judge must provide written reasons which specify the substantial and compelling nature of the circumstances.

In addition, when the court commits a person convicted of first degree (felony) driving while impaired to the custody of the commissioner of corrections, it shall provide that after the person has been released from prison the commissioner shall place the person on conditional release for five years.

II.E.01. The types of offenses that may involve a mandatory minimum . . . first degree (felony) driving while impaired, and certain 2nd and 3rd degree murder offenses

II.E.02. The Commission believes this duration is more appropriate than the ~~48~~ 36 month prison duration that would be recommended if this crime were ranked at severity level VII

II.E.06. When an offender is sentenced for first degree (felony) driving while impaired, Minnesota Statutes § 169A.276 mandates that the court impose a prison sentence of at least 3 years. That statute provides that the court may stay execution (but not imposition) of the prison sentence but it may not impose a duration of less than three years. However, the presumptive disposition for the offense is still imprisonment and the presumptive duration is the cell time from the Sentencing Guidelines Grid. A stay of execution for the case constitutes a mitigated dispositional departure. The imposition of a duration less than the cell time constitutes a mitigated durational departure. Written reasons which specify the substantial and compelling nature of the circumstances and which demonstrate why the sentence selected is more appropriate, reasonable or equitable than the presumptive sentence are required. . . .

Official Notices

IV. SENTENCING GUIDELINES GRID

SEVERITY LEVEL OF CONVICTION OFFENSE (Common offenses listed in italics)		0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree</i> (intentional murder; drive-by- shootings)	X <u>XI</u>	306 <i>299-313</i>	326 <i>319-333</i>	346 <i>339-353</i>	366 <i>359-373</i>	386 <i>379-393</i>	406 <i>399-413</i>	426 <i>419-433</i>
<i>Murder, 3rd Degree</i> <i>Murder, 2nd Degree</i> (unintentional murder)	IX <u>X</u>	150 <i>144-156</i>	165 <i>159-171</i>	180 <i>174-186</i>	195 <i>189-201</i>	210 <i>204-216</i>	225 <i>219-231</i>	240 <i>234-246</i>
<i>Criminal Sexual Conduct,</i> <i>1st Degree²</i> <i>Assault, 1st Degree</i>	VIII <u>IX</u>	86 <i>81-91</i>	98 <i>93-103</i>	110 <i>105-115</i>	122 <i>117-127</i>	134 <i>129-139</i>	146 <i>141-151</i>	158 <i>153-163</i>
<i>Aggravated Robbery 1st Degree</i>	VII <u>VIII</u>	48 <i>44-52</i>	58 <i>54-62</i>	68 <i>64-72</i>	78 <i>74-82</i>	88 <i>84-92</i>	98 <i>94-102</i>	108 <i>104-112</i>
<i>Felony DWI</i>	<u>VII</u>	<u>36</u>	<u>42</u> <i>39-45</i>	<u>48</u> <i>45-51</i>	<u>54</u> <i>51-57</i>	<u>60</u> <i>57-63</i>	<u>66</u> <i>63-69</i>	<u>72</u> <i>69-75</i>

Effective August 1, 2002

**Examples of Executed Sentences (Length in Months) Broken Down by:
Specified Minimum Term of Imprisonment and Specified Maximum Supervised Release Term**

Executed Sentence	Term of Imprisonment	Supervised Release Term
....
<u>42</u>	<u>28</u>	<u>14</u>
....
<u>54</u>	<u>36</u>	<u>18</u>
....
<u>66</u>	<u>44</u>	<u>22</u>
....
<u>72</u>	<u>48</u>	<u>24</u>

V. OFFENSE SEVERITY REFERENCE TABLE

X XI
	Adulteration - 609.687, subd. 3(1)
IX X
	Murder 2 of an Unborn Child - 609.2662(1)
VIII IX
	Fleeing a Peace Officer (resulting in death) - 609.487, subd. 4(a)
VII VIII
	Murder 3 of an Unborn Child - 609.2663
VII
	Assault 1 - 609.221
VI
	Tampering with Witness, Aggravated First Degree - 609.498, subd. 1b
V
	Aggravated Robbery 1 - 609.245, subd. 1
IV
	Manslaughter 2 of an Unborn Child - 609.2665(1)
III
	First Degree (Felony) Driving While Impaired - 169A.24

**Department of Transportation
State Aid for Local Transportation Group**

**Petition of the Rice County Board for a variance from State Aid requirements for AFTER
THE FACT PLAN APPROVAL**

NOTICE IS HEREBY GIVEN that the Rice County Board has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300, for a variance from rules as they apply to the completed bituminous overlay project located on Rice County State Aid Highway No. 40 at the access to Nerstrand State Park.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2800, Subp. 2, adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, as they apply to the completed bituminous overlay project located on County State Aid Highway No. 40 known as State Aid Project No. 66-640-04, which provides access to Nerstrand State Park in Rice County, Minnesota, so as to allow approval of construction plans after bids are opened, in lieu of the required approval of construction plans by the State Aid Engineer prior to opening of contract bids.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 7 November 2001

Julie A. Skallman
State Aid Engineer
State Aid for Local
Transportation

Minnesota Public Utilities Commission

REQUEST FOR COMMENTS on Possible Rules to Implement *Minnesota Statutes*, § 216B.81, Subd. 1

Subject of Rules. The Minnesota Public Utilities Commission requests comments on possible rules governing the safety, reliability and service quality of distribution utilities, implementing *Minnesota Statutes*, § 216B.81, subd. 1. The Commission has initiated **Docket No. E-999/R-01-1671** for this purpose.

Reliability standards must be based on -

(1) the system average interruption frequency index (determined by dividing the total annual number of customer interruptions by the average number of customers served during the year),

(2) the system average interruption duration index (determined by dividing the annual sum of customer-minutes of interruption by the average number of customers served during the year), and

(3) the customer average interruption duration index measurement indices (determined by dividing the annual sum of all customer-minutes of interruption durations by the annual number of customer interruptions).

Service quality standards must specify, if technically and administratively feasible,

(1) average call center response time;

(2) customer disconnection rate;

(3) meter-reading frequency;

(4) complaint resolution response time;

(5) service extension request response time;

(6) recording of service and circuit interrupter data;

(7) summary reporting;

(8) historical reliability performance reporting;

(9) notices of interruptions of bulk power supply facilities and other interruptions of power; and

(10) customer complaints.

Safety standards shall require compliance with applicable governmental and industry standards, including *Minnesota Statutes*, § 326.243.

Persons Affected. The adoption of these rules would likely affect -

- distribution utilities,
- cooperative electric associations and municipal electric utilities (which must adopt standards as consistent as possible with Commission standards),
- the customers of these utilities and associations, and
- Minnesota agencies with jurisdiction over these utilities and associations.

Statutory Authority. At least three statutes authorize the Commission to adopt rules on this subject. *Minnesota Statutes*, section 216A.05, authorizes the Commission to set rules with respect to the control and conduct of the businesses coming within its jurisdiction. Section 216B.08 authorizes the Commission to set rules in furtherance of the purposes of chapter 216B, governing energy utilities. And section 216B.81 directs the Commission to adopt standards for safety, reliability and service quality for distribution utilities. See Laws 2001, chapter 212, article 6, section 1.

Public Comment. The Commission invites interested persons or groups to submit comments or information on the possible rules in writing or orally until 4:30 p.m. on January 7, 2002. Interested persons or groups may also request to be included on the Commission's list of persons who wish to receive notices pertaining to this rulemaking. Written or oral comments, questions, and requests to receive a draft of the rules when they are prepared should be addressed to:

Carol Casebolt or Eric Witte
Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, Minnesota 55101-2147
Phone: (651) 296-6029 (Casebolt)
(651) 296-7814 (Witte)
Fax: (651) 297-7073

All communications in this matter should include a reference to Docket No. E-999/R-01-1671.

Burl W. Haar
Executive Secretary

This document can be made available in alternative formats (i.e., large print or audio tape) by **phone:** (651) 297-4596, **TTY:** (651) 297-1200, or **TTY relay service:** 1-800-627-3529

State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Minnesota Department of Health

Office of Rural Health and Primary Care

Notice of Grant Availability of Minnesota Rural Flex Grant Program

The Office of Rural Health and Primary Care, Minnesota Department of Health, is seeking grant applications from qualifying applicants for the Minnesota Rural Flex Grant Program.

Activities that further the objectives of Minnesota's Rural Hospital Flexibility Program are eligible for grant support. These objectives are to promote regionalization of health care services, improve access to quality health care services, and provide for the development and/or enhancement of rural health networks, including emergency medical service networks. The following activities may be funded through this grant:

Community Planning and Needs Assessment - Grants may be used by local health organizations, hospitals and their communities to develop community, network or strategic plans for preserving or enhancing access to health services. Plans may include a needs assessment to determine what health services are needed and desired by the community; an assessment of the feasibility of providing needed health services that identifies priorities and timelines for potential changes; and an implementation plan.

Health System Development and Improvement Projects - Grants may also be used for implementation activities in the following categories by applicants with completed plans or needs assessments: Network development and health system improvements, health system improvements (diversification, new services, workforce development efforts, etc), strengthening and integrating the EMS system, and quality improvement.

Eligible applicants are: rural hospitals eligible to convert to Critical Access Hospital licensure, rural hospitals with 50 or fewer beds, rural health networks (applicants must be nonprofit or local government entities), and rural EMS organizations.

State Grants & Loans

Total amount available: \$195,000. The maximum for any grant is \$25,000. Applications are due January 14, 2002. Prospective applicants who have questions or would like a copy of the application guidelines should contact:

Jill Zabel

Office of Rural Health and Primary Care

Minnesota Department of Health

Phone: (651) 282-6304

By mail: P.O. Box 64975, St. Paul, Minnesota 55164-0975

By courier: 121 East 7th Place, Suite 460, St. Paul, Minnesota 55105

Applications are also available on the Office of Rural Health and Primary Care **website** at:
<http://www.health.state.mn.us/divs/chs/grants.htm>

State Contracts

Informal Solicitations

Effective December 1, 2001, informal solicitations for all contracting opportunities for professional/technical (consultant) contracts with values estimated to be over \$5,000 and under \$50,000 must be posted on the Department of Administration's, Materials Management Division's web page (www.mmd.admin.state.mn.us).

Formal Requests for Proposals

Department of Administration procedures require that formal notice of any professional/technical (consultant service) contract which has an estimated value over \$50,000 must be printed in the *State Register*. Certain quasi-state agencies and Minnesota State Colleges and Universities institutions are by law exempt from these requirements.

Department of Administration

Real Estate Management Division

Notice of Updated Terms and Conditions for Sale of State Property

NOTICE IS HEREBY GIVEN that the Department of Administration is offering for sale by sealed bid a 25-building campus with 245 acres located in and adjacent to Sauk Centre, Minnesota under updated terms and conditions.

For more information including bid terms and conditions, visit the **website:** www.mainserver.state.mn.us/rem, send an **email** to: wayne.waslaski@state.mn.us, or call Wayne at (651) 296-2278.

Bids are due **no later than 10:00 a.m., CST on Wednesday, November 21, 2001.**

Department of Health

Office of Minority and Multicultural Health

Request for Proposals for the Evaluation of Eliminating Health Disparities Initiative

The Minnesota Department of Health (MDH) is requesting proposals for the purpose of completing a formative evaluation of the grant programs funded under the Eliminating Health Disparities Initiative during this first cycle. The evaluator will build the capacity of the grantees to design programs and strategies that can be meaningfully evaluated within the context of outcomes mandated by the state legislature and further refined by the MDH and community members.

The MDH has \$400,000 available for evaluation for up to 24 months beginning March 1, 2002. Eligible applicants may include non-profit organizations, research institutions, professional consulting firms or individuals or other qualified parties.

To be considered, proposals must be received by 2:30 p.m., CST, Friday, December 21, 2001 at the Minnesota Department of Health, 121 East Seventh Place, Suite 400, St. Paul, MN 55101 (delivery address) or the Minnesota Department of Health, PO Box 64975, St. Paul, MN 55164-0975 (mailing address). **Late proposals will not be considered.**

A copy of the full Request for Proposal may be obtained at <http://www.health.state.mn.us/>. Scroll to "Announcements" and then to "RFPs/Rule Proposals" and click on "Request for Proposals: Evaluation of Eliminating Health Disparities Initiative."

A copy can also be obtained by contacting Kim Edelman, Center for Health Statistics, Minnesota Department of Health, PO Box 64975, St. Paul, MN 55164-0975; **phone:** (651) 297-5811; **fax:** (651) 296-9362; or **email:** kim.edelman@health.state.mn.us

Minnesota Historical Society

Request for Proposals for Exterior Wayfinding Signage

The Minnesota Historical Society seeks proposals for the fabrication and installation of exterior wayfinding signage for the Minnesota History Center.

The Request for Proposals is available by contacting Chris M. Bonnell, Contracting Officer, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, Minnesota 55102. **Phone:** (651) 297-5863, or **email:** chris.bonnell@mnhs.org

All proposals must be received by Chris M. Bonnell, Contracting Officer, or his agent, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102, no later than 2:00 p.m., on Tuesday, December 11, 2001. A proposal opening will be held at this time. **Late proposals will not be considered.** Authorized agents for receipt of proposals are the following: Contracting/Procurement Technician or any Work Service Center staff member in the Finance and Administration Division on the 4th floor of the History Center. Proposals may not be delivered to the information desk, to the Capitol Security guard or to any location or individual other than as specified above.

A mandatory pre-proposal meeting will be held on Thursday, November 29, 2001 at 1:00 p.m. This meeting will be held at the Minnesota History Center, 345 Kellogg Boulevard West, St. Paul, Minnesota 55102.

Dated: 19 November 2001

Minnesota Housing Finance Agency

Request for Proposals for Rental Housing Pilot Program

The Minnesota Housing Finance Agency (MHFA) and the Family Housing Fund (FHF) announce the availability of \$500,000 to establish a pilot program to address the needs of tenant households who have difficulty finding housing due to poor rental histories.

Background and Legislative History

In 2000, the MHFA and FHF convened a group of housing and tenant organizations to examine the problem of hard-to-house tenants. With vacancy rates so low, participants were concerned about the growing numbers of households screened out of rental housing due to poor rental histories or other personal barriers.

The group examined the variety of activities that existing hard-to-house tenant programs offer, including: tenant training and certification, pre-placement counseling and support, indemnification and financial help for landlords, post-placement mentorship and

State Contracts

support, and landlord recruitment. A survey of programs identified many outstanding programs, but the working group came to the conclusion that a *uniform and replicable* tenant training and certification program should be developed in order to assist people in passing screening tests and performing as good tenants.

In the 2001 legislative session, the legislature appropriated \$357,000 to the MHFA in order to help develop and implement such a program as a pilot project. The FHF will contribute an additional \$143,000 to augment one or more projects serving tenants in the seven-county Twin Cities metropolitan area.

Rental Housing Pilot Program Requirements

The goal of the Rental Housing Pilot Program is to develop and operate a holistic, uniform, and replicable program that works to house high-risk tenants with poor rental histories. A “high-risk tenant” is a person who has had an application for rental housing denied for reasons other than a felony conviction or previous willful substantial damage to rental housing.

The Pilot Program should be a state-of-the-art model that eventually may be utilized by organizations throughout the state. The selected Pilot Program provider(s) will work directly with high-risk tenants and with landlords and not simply refer high-risk tenants to other agencies for service. Organizations with experience in tenant education and service to high-risk tenants are strongly encouraged to partner with organizations with complementary experience and strengths to create the most comprehensive program possible.

The Rental Housing Pilot Program must include the following components:

- Tenant education and certification.

The application must include the curriculum to be used for educating high-risk tenants and a description of the process for certifying that the curriculum has been completed successfully. The proposed curriculum should include basic information about the rental process in addition to other topics such as budgeting, personal financial management, conflict resolution, legal education, and community resource options.

The curriculum should balance the rights and responsibilities of both landlords and tenants and should be acceptable to landlords or owner organizations. Please indicate whether the curriculum has been tested or is used by organizations currently and, if so, describe the lessons learned and any modifications that have been made to the curriculum.

- To the extent that financial incentives for landlords are proposed, a mechanism by which landlords receiving financial assistance will be held accountable for responsible management practices.
- An evaluation component.

Applicants for the Rental Housing Pilot Program should consider including the following program components:

- Incentives to encourage participants to complete the certification process.

Possible incentives may include, but are not limited to, Section 8 vouchers to qualifying households, application fee and security deposit assistance, credit toward MFIP requirements, help expunging records of unlawful detainers where appropriate, etc.

- Incentives for landlord participation.

Incentives to encourage landlords to elect to participate in the Pilot Program may include full or partial financial indemnification to financial losses, payment bonds, case management, assistance with standardized tenant-applicant screening, etc.

Application and Applicant Requirements

The Rental Housing Pilot Program is a two-year pilot, not including the period to complete and submit the evaluation.

The Rental Housing Pilot Program may serve tenants only in one or more of the following counties: Benton, Clay, Dakota, Hennepin, Olmsted, Ramsey, St. Louis, Sherburne, and Stearns. Local government units, nonprofit agencies, or partnerships between local government units and nonprofit agencies are eligible applicants for the Rental Housing Pilot Program funding.

Applicants should describe their proposed program and how it will work; who and how many households they propose to serve; how their program will be evaluated; and a budget for the requested funds.

Applicants may apply for all or a portion of the funds. Applicants that are units of local government must contribute matching funds; the match may include administrative costs, payment bond funding, or property tax credits.

Selection Process and Criteria

The MHFA and the FHF will select the recipient(s) for the Rental Housing Pilot Program funding from among the applications submitted. In making the selection, the MHFA and the FHF may consult with representatives of the following organizations: orga-

nizations who advocate for tenants and provide tenant training, organizations representing rental housing owners, nonprofit and for-profit housing providers, supportive housing service providers, and tenant screening organizations.

The MHFA and the FHF reserve the right to require a successful applicant to modify or replace their proposed tenant education curriculum.

The selection criteria are as follows:

- An ability to deliver the most comprehensive set of services.
- The experience of the applicant and the capacity to serve the households identified.
- The extent to which the program may be replicated and used throughout the state.
- Cost effectiveness.

Submission of Applications

Applications are due in the offices of the Minnesota Housing Finance Agency by December 28, 2001, **no later than 4:00 p.m.**

Applications should be submitted as follows:

Minnesota Housing Finance Agency
Attn: Cam Oyen
400 Sibley Street, Suite 300
St. Paul, MN 55101-1998

Direct questions to Cam Oyen by **email** at: cameron.oyen@state.mn.us, or by **phone**: (651) 296-8102. You may also view a copy of this Request for Proposals on the MHFA **website** at: www.mhfa.state.mn.us

Department of Human Services

Notice of Request for Proposals to Develop a Comprehensive Medicaid Managed Care Incentive Program for the Minnesota Department of Human Services

The Minnesota Department of Human Services (DHS) is requesting proposals for a project expected to last through August 2002. Proposals will be accepted from all organizations with demonstrable qualifications and experience including; Peer Review Organizations (PRO), an entity that is eligible to be a PRO (PRO like), by a private accreditation body, public/ private research organizations or universities.

DHS through Performance Measurement and Quality Improvement (PMQI) Division, is interested in contracting for professional and technical consulting services to research, design and develop a sustained comprehensive Medicaid managed care incentive program. The services to be provided by the selected vendor will include multiple tasks and deliverables including;

- Summarization of current literature on health care incentive (disincentives) programs
- Survey of health care organizations with incentive (disincentive) programs
- Health plan interviews on the key determinants of effective incentives
- Analyze DHS performance measures and encounter data to construct effective incentive measures, goals, objectives and benchmarks
- Develop a durable strategy that incorporates both incentives and disincentives
- Propose alternative incentive (financial and non-financial) strategies
- Research and recommend alternative incentive strategies that address enrollee outreach, resulting in the enhancement of preventive services utilization.

The vendor's tasks and deliverables will result in a comprehensive incentive report, blueprinting the steps DHS may take to implement a sustained Medicaid managed care incentive program.

Vendors will be responsible for all costs and expenses incurred in responding to this RFP. The State reserves all rights to proceed in whatever manner it perceives to be in its best interest, and may cancel this RFP at any time and/or choose not to purchase any services or solutions from outside resources.

State Contracts

To obtain a copy of the complete Request for Proposals, please contact:

Sara Koppe
Performance Measurement and Quality Improvement
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3865
Phone: (651) 215-6260
Fax: (651) 215-5754
Email: sara.koppe@state.mn.us

Proposals must be received **no later than 3:00 p.m. on January 17, 2002.**

State Board of Investment

Notice of Request for Proposals for Master Custody Service

The State Board of Investment is soliciting proposals from providers of master custodial services for the assets of the Basic Retirement Funds, Post Retirement Fund, Supplemental Retirement Funds and other non-retirement trust funds. This vendor will also provide cash management and operate a securities lending program for the SBI. Responses to this request for proposal will be used to select a vendor to supply the SBI with these services.

All interested vendors should contact the person below by letter or telephone to request a copy of the complete Request For Proposal.

Prior to December 6, 2001

Michael Schmitt
Administrative Director
Suite 200, Capitol Professional Building
590 Park Street
St. Paul, MN 55103
Phone: (651) 296-3328
Fax: (651) 296-9572
Email: mike.Schmitt@state.mn.us

After December 6, 2001

Michael Schmitt
Administrative Director
Suite 355
60 Empire Drive
St. Paul, MN 55103-3555
Phone: (651) 296-3328
Fax: (651) 296-9572
Email: mike.Schmitt@state.mn.us

All proposals must be submitted before **3:00 p.m., Central Time, December 20, 2001** as specified in the Request For Proposal.

NO PROPOSAL RECEIVED AFTER THAT DATE AND TIME WILL BE CONSIDERED.

Non-State Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

University of Minnesota

Notice of Bid Information Service (BIS) Available for All Potential Vendors

The University of Minnesota offers 24 hour/day, 7 day/week access to all Request for Bids/Proposals through its web based Bid Information Services (BIS). Subscriptions to BIS are \$75/year. Visit our web site at bidinfo.umn.edu or call the BIS Coordinator at (612) 625-5534.

Requests for Bids/Proposals are available to the public at no charge each business day from 8:00 a.m. to 4:30 p.m. in Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Mpls., MN 55454.

University of Minnesota

Request for Proposal for a Facility Condition Assessment (FCA) at the University of Minnesota's Twin Cities Campus

I. NOTICE OF REQUEST FOR PROPOSAL

The University of Minnesota (U of M) is interested in performing a Facility condition Assessment (FCA) for its Twin Cities Campus. The intent of this Request For Proposals (RfP) is to receive, review, clarify, and evaluate proposals. Our ultimate objective is to contract for the services of a consulting firm, who will perform this assessment and will produce detailed and cost estimated deficiency reporting. The resultant FCA must be performed on approximately 200 buildings totaling about 20 million square feet, and be complete in a 10 - 14 month timeframe. The FCA will include the following facility components - Building Interiors, Mechanical Systems, Electrical Systems, and Elevators.

Major evaluation criteria include:

- Having performed previous Facility Condition Assessments of the same size and magnitude as the University of Minnesota.
- Having performed multiple Facility Condition Assessments at other universities and colleges.
- Providing options for hosting the resulting data on vendor's own web based database.
- Providing options for loading, interfacing, or integrating resulting data to the University of Minnesota's Enterprise Facility Management system.

Call or write for a full RFP, which will be sent free of charge to interested vendors.

II. CONTACT FOUR RFP INQUIRIES:

For technical questions:

RFP COORDINATOR

Grant Clavelle
Facilities Management
300 Donhowe Building
319 15th Ave. S.E.
Minneapolis, MN 55455
Phone: (612) 626-1042
Fax: (612) 626-0234
Email: *clavellg@facm.umn.edu*

For procedural questions:

PURCHASING SERVICES

Denis Larson
Facilities Management
400 Donhowe Building
319 15th Ave. S.E.
Minneapolis, MN 55455
Phone: (612) 625-5554
Fax: (612) 624-5796
Email: *larsond@facm.umn.edu*

[Note: Prefer inquiries by email. Please send to one contact and copy the other.]

III. TENTATIVE SCHEDULE OF EVENTS

Be advised that these dates are subject to change as the University officials deem necessary.

RFP Document Issued	Friday, November 30, 2001
RFP Pre-Proposal Meeting	Tuesday, December 11, 2001
All Questions/Inquiries Deadline	Friday, December 21, 2001
RFP Responses Due	Tuesday, January 8, 2002
Evaluations, Selection of Finalists	Friday, January 18, 2002
Presentations	Monday, January 28, 2002
Negotiations and Clarifications	Friday, February 8, 2002
Selection Decision.	Friday, February 15, 2002
Award Notification to Vendor	Friday, February 22, 2002
FCA Commencement Date	Monday, April 1, 2002
FCA Completion Date.	Monday, March 31, 2003

The University reserves the right, in its sole discretion, to reject any or all proposals, accept any proposal, waive informalities in proposals submitted, and waive minor discrepancies between a proposals and these proposals instructions, as it deems to be in its best interest. Any waiver of the University with respect to the requirements of these proposal instructions shall apply only to the particular instance for which it was made or given, so not such waiver shall constitute a permanent or future waiver of such requirements.

